

WILLIAMS: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for the thirty-ninth day of the One Hundred Seventh Legislature, Second Session. Our chaplain today is Pastor Jeff Scheich from Christ Lincoln in Yankee Hill in Senator Geist's district. Please rise.

PASTOR SCHEICH: We bow our heads in prayer. Heavenly Father, we're grateful today for the gift of another day. First and foremost, on our minds today are the people of Ukraine. Refugees by hundreds of thousands pouring over borders to neighboring countries. It's hard for us to fathom the pain, the heartache, the devastation that they experience. We pray for peace in that region of the world. We pray for cooler heads to prevail. We pray that you would, in mighty and powerful ways, restrain evil and promote good. We pray today for President, President Putin and for the leaders of Russia. We pray for a change of heart and mind. So that rather than pursuing war, they would miraculously pursue peace. We pray for President Zelenskyy and the other leaders of Ukraine that you would guard and defend them from every evil, that you would grant them continued courage and strength as they lead that they too would pursue peace. As our thoughts turn to our nation, we pray for President Biden, we lift up the members of the Congress and Senate, the justices of the Supreme Court. And not only for our national leaders, but we-- as we are a nation of states, we pray for Governor Ricketts, for his leadership team. We ask for wisdom among us who serve today in the Legislature as well. You raise up leaders. We pray today that we be mindful that ultimately we serve you, and that we answer to you for the way we carry out the leadership trust you have given to us. Make us humble. Make us wise. Enable the people of our state and beyond to be blessed by the decisions we make today. Heavenly Father, as we close we ask one thing, what do you want from us today? How can we serve you today? We pray in Jesus name. Amen.

WILLIAMS: Thank you, Pastor Scheich. I recognize Senator Clements for the Pledge.

CLEMENTS: Please join me for the Pledge. I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

WILLIAMS: Thank you. I call to order the thirty-ninth day of the One Hundred Seventh Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

ASSISTANT CLERK: There is a quorum present, Mr. President.

WILLIAMS: Thank you, Mr. Clerk. Items.

ASSISTANT CLERK: Mr. President, new A bill, LB902A, offered by Senator Aguilar. It's a bill for an act relating to appropriations; to carry out the provisions of LB902. In addition to that, an announcement that the Executive Board will meet in Executive Session at 9:30 this morning under the north balcony. That's all I have.

WILLIAMS: Thank you, Mr. Clerk. Senator Slama would like to recognize our Doctor of the Day, Brett Copley of Syracuse, who is serving as the family physician of the day on behalf of the Nebraska Academy of Family Physicians. Dr. Copley, if you would please rise and be recognized by your Nebraska Legislature. Mr. Clerk, we'll proceed to General File.

ASSISTANT CLERK: Mr. President, first bill this morning, LB773, offered by Senator Brewer. It's a bill for an act relating to firearms; to prohibit regulation of the carrying of concealed handguns by cities, villages, and counties; provide for the carrying of a concealed handgun without a permit; provide for requirements, limits, and offenses relating to carrying a concealed handgun; change provisions of the Concealed Handgun Permit Act; provide penalties; eliminate definitions; to harmonize provisions; repeal the original sections. Bill was introduced on January 5 of this year. It was placed on General File pursuant to a motion filed by Senator Brewer on Tuesday of this week.

WILLIAMS: Senator Brewer, you're recognized to open on LB773.

BREWER: Thank you, Mr. President. Good morning, colleagues, and good morning, Nebraska, especially those listening in this morning. I think for us to fully understand LB773, we need to go back and talk a little about how we got here. This has been a six-year process. I made a promise to folks when I first got elected that I would make this a priority bill and I have done that over and over. I will continue that work. So if we have to next year have another committee hearing, have another pull motion, have another trip to the floor, understand, I will keep my promise. Now, so everybody understands when we had the committee hearing, I purposely asked to have everyone stand down to only bring in a handful of folks so that hearing did not run for hours and hours like the red flag hearing did. I did that as a courtesy so that that opportunity to look at LB773 would be done in a way so that the committee had a fair balance on both sides and it would get a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

hearing and we get a chance to bring it to the floor. That did not happen, so we went through the pull motion. That is how we got to where we're at here now. Sadly, this bill is simply what I would call a coat motion because what we're talking about currently in the state of Nebraska, it is legal to open carry. Not an issue. But what we're saying is if you put on your coat and you cover that firearm, now you're a criminal. If you want to do anything other than that, then you're going to have to pay for it. So we're going to discuss whether this is conscious-- constitutionally sound and a good idea. We need to look at the difference between a privilege and a right. If I was to ask any of the women in this body if they voted, I am pretty sure they'd all say yes, as they should. But if I ask them if they had to pay a fee, a toll to vote, I would hope none of them had to. We have the Nineteenth Amendment, August 6, 1920, guaranteed women the right to vote. And we'll ask the lawyers in this body a question. Do your clients have to get a Sixth Amendment permit before you can be hired to represent them? We don't do that. But for some reason, we've taken upon ourselves to say if you want to carry a weapon that you have been given the right in the Bill of Rights. And as I read in the pull motion in the first paragraph of the Nebraska Constitution, you're not able to do that. I hope some of you get on the mike today and today will be revealing. For those that are watching, take out a piece of paper, and write on that paper pro, con, and neutral. And as everyone gets up to speak today, find a place to put that mark. And by the end of the day, I think you'll start to understand who here supports the Second Amendment and who doesn't. Now there'll be issues brought up. I'm here and I'm ready to, to answer those questions. There may be somebody on this floor better qualified to address this issue, but there are not very many. Right now, there are four states who have passed this session constitutional carry and it is sitting on the governor's desk: Alabama, Ohio, Indiana, Georgia. So if we pass it, we will be number 26. Remember that the United States Supreme Court has twice affirmed this bill about the individual constitutional protected right. This is not a law about everyone. The bottom line is this is for law-abiding citizens, so they don't have to jump through hoops for what is right. We here in this body need to answer a question today. Should Nebraska continue to be in the business of dispensing a privilege to people? Something that is already a right. I think anyone who has ever carried concealed understands the responsible-- the responsibility that comes with carrying that weapon. Unlike anyone else in this body, I have had to take lives with a handgun. Now that burden and that ghost will be with you the rest of your life. So I don't take this easy what I'm asking here. I understand the responsibility, but there's a point we have to have a responsibility

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

to the constitution and to the people of Nebraska. I have spent many hours going back and forth on how to handle things here today. I struggle with some inadequacies. A fierce temper is one of those. I am sure that there has been plotting and planning to see how to derail this bill, and they may be successful. But the need is there. The emails, phone calls, orange cards that you get, they're going to keep coming. So if those who are plotting to kill this bill and stop the ability for folks to enjoy their Second Amendment right, understand, we will come back. We'll do it again. But we're going to continue to do it. We're going to continue to give folks a voice and you're going to continue to get those emails. There is no other issue that we have before us that will bring the response. You all seen what happened when we tried to have a red flag law. We filled every briefing room that was available, hallways. Now, again, as a courtesy, I have asked them to stand down. Do not bring guns to the Capitol. Be here to listen if you come if you can't listen on television, but understand who supports the Second Amendment and who doesn't. Because I think there is a groundswell from the people of Nebraska on a lot of things: the teaching of our children, taxation. But their ability to enjoy their given right with the Second Amendment will rank with any of them. So today as we go through and we talk about LB773, we'll have plenty of time to discuss the strengths and weaknesses. We have an amendment. Many of you have got messages on that amendment.

WILLIAMS: One minute.

BREWER: But we will break that amendment down so you better understand it. But this amendment was done to support law enforcement. I would not bring a bill forward that would not have their support and would work against them. And so we spent many hours working a solution. So I would ask that you listen and we will have more to say on LB773. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Brewer. Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Brewer would move to amend with AM1757.

WILLIAMS: Senator Brewer, you're recognized to open on AM1757.

BREWER: Thank you, Mr. President. Again, I could take a lot of time here to talk about everything under the sun, but this bill is very basic. We're not, we're not playing a Ouija game here. You can read the bill in a matter of minutes. The amendments were necessary, and I'll tell you why. This white copy amendment only does two things. It

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

changes and clarifies that we are only authorizing individuals to carry a concealed firearm that are at least the age of 21. In addition to that, it harmonizes the prohibited person definition that's used by both the state and the federal law. I believe these changes are necessary to avoid public confusion when it comes to the issue of carrying concealed. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Brewer. Debate is now open on AM1757 and LB773. Senator Morfeld, you're recognized.

MORFELD: Thank you, Mr. President. I rise in opposition to LB773 and the underlying amendment. And I do this from the perspective of a gun owner, a gun owner who is also a licensed concealed carry owner and somebody who has been through the training. I also do it from the perspective of somebody who specializes in constitutional law. So we will talk today about the difference between what a privilege and a right is. We will talk today about how what this bill does with the amendment is actually more dangerous to gun owners' rights. Because what the amendment is doing is creating over a dozen enhancements, over a dozen criminal enhancements on gun owners if they commit a crime while carrying their firearm, everything from not identifying yourself to another law enforcement officer as a concealed carry owner to a bunch of other crimes. So what we are doing, colleagues, is we are getting rid of the training requirement, which I think, quite frankly, was the most important part of the licensing process and being a concealed carry owner. We are getting rid of the training requirement, which is fairly extensive and important, and then we are enhancing a bunch of criminal penalties on concealed carry owners-- excuse me, I'm losing my voice here-- on concealed carry owners and not telling them about it. Colleagues, I wasn't in support of this bill when it was introduced-- first as introduced. But now that we have an amendment, which is called a compromise amendment, which doesn't actually get law enforcement in support, it just gets one agency neutral. Now that we have this amendment, we're actually increasing criminal penalties for law-abiding-- otherwise, law-abiding gun owners. I'm afraid that they're going to get caught up in some of this stuff. And not only are they going to get caught up in it, we've also eliminated the training requirement to apprise people of what their rights are and what their responsibilities are as gun owners if they are concealed carrying. And when we talk about privileges and rights, the first thing that they teach you in constitutional law in law school is that rights are not unlimited. Even constitutional rights, rights are not unlimited. And that includes constitutional rights. And the Supreme Court has found time and time again that reasonable regulations of guns are constitutional. Now, is it totally

constitutional for us to pass this law? Absolutely. I will not deny that for a moment. It is our purview to be able to create laws to either regulate or not regulate firearms as long as they're reasonable and they follow the constitutional framework that's been provided by the Supreme Court. But make no mistake, rights are not absolute. They never have been. There can be reasonable regulations, particularly when there is a compelling state interest. And when it is a constitutional right, there must be a compelling state interest. And the court has found time and time again that when it comes to reasonable regulations with firearms, there is a compelling state interest because there is a gun violence problem in our country. So I want to talk about the constitution. I'm a big fan of the constitution as somebody who specializes in constitutional law. But let's make sure that we frame our discussion and our debate surrounding the constitution based on the actual precedence and based on the reality of constitutional rights and the reality of constitutional rights as they are not simply just unlimited. And, colleagues, there is a difference between open carry and concealed carry. The difference between open carry and concealed carry is this--

WILLIAMS: One minute.

MORFELD: --when someone is open carrying, you have notice that they have a firearm. When someone is concealed carrying, you do not have notice. And so, therefore, there is a heightened responsibility of that individual to have more knowledge as to the laws and to have more responsibilities surrounding concealed carry. And I'll tell you, as somebody who took the concealed carry course, it was very useful in brushing up on what are the responsibilities of someone who is concealed carrying. We are not repealing any of those laws, so those are still in place. And then also, what are your responsibilities if you are in a situation potentially involving deadly force? So, colleagues, we are going to get rid of that training requirement. We are then going to enhance over a dozen different laws relating to people concealed carrying, and most people aren't even going to know about it. This is not only a dangerous bill for the public, and law enforcement has come in and strongly opposed this.

WILLIAMS: Time, Senator.

MORFELD: Thank you, Mr. President.

WILLIAMS: Thank you, Senator Morfeld. Mr. Clerk, you have an amendment to the amendment.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

ASSISTANT CLERK: Mr. President, Senator John Cavanaugh would move to amend AM1757 with AM1794.

WILLIAMS: Senator John Cavanaugh, you're recognized to open on your amendment.

J. CAVANAUGH: Thank you, Mr. President. So AM1970, or I'm sorry, AM1794 is an amendment that basically contemplates a bill I introduced in Judiciary this year that Senator Brewer cosponsored, if I recall. I'm not-- obviously, at this point not holding him to that cosponsorship. But I, I do appreciate his recognition of the value of the idea. And so what AM1794 does is essentially it's the same bill as LB1051, and it's about the principle that if the Legislature is to decide that something that is no longer criminal-- so if we decriminalize conduct, that we should make sure that those people who are previously convicted of that crime have a means by which to have the conviction removed from the record. I intend this is a serious amendment, which is why I filed it early and over a month ago and after Senator Brewer filed his amendment. It's my view that LB773 passes some version of that has to include a means by which to have this expungement. I think that, at least in principle, Senator Brewer agrees with this as he signed on to be a cosponsor. AM1794 provides for set aside and expungement of records for concealed weapons offenses. Specifically, it provides for rebuttable presumption that if the Legislature repeals 28-1202 or amends it in such a way that the moving parties conduct would no longer have been criminal under the new statute, the conviction could be set aside. So in essence, if LB773 passes with AM1794 attached, a, a person previously convicted of a concealed weapon's offense for something that would, would not be a crime after LB773 has been made law that the person would be able to have that conviction set aside and their record expunged. If you support LB773, you should support AM1794. As a statement of principle that if you decide that as a body that something should not be a crime, we should allow those previously convicted to have a chance to remedy that conviction. If you do not support LB773, you should support AM1794 as a chance to make the bill a little bit better. I expect we're going to have a long debate today, and I'd be happy to talk about my amendment and any questions. Basically, that's my prepared remarks. But basically what this is, is saying LB773, as Senator Brewer I think eloquently put it in his opening, is a statement of principle. And it's a principle that he, he believes, and I think a number of people here believe in, that certain conduct should not be subjected to criminal sanction. And what I'm saying is that if you agree with that principle, if you agree with that, that one of the things that we should be doing is making sure that we are

not unduly punishing the people going forward who were subjected to that law in the past. And I think this extends to many other aspects of our, our criminal justice system and our laws as well is that when we recognize if we think that something is no longer criminal conduct that then people should be welcomed back into the fold as it were. And this is-- again, I'm not stating that at this point that I agree and, and I-- with the underlying bill or the amendment I think that we're going to get to that Senator Brewer talked about that he's worked on, which I think is AM2106. And Senator Morfeld just went through a number of the issues with AM2106 as well. And I have a similar number of, of problems with that, and I will talk about those again later. But fundamentally, what AM1794, my amendment does, is it holds us accountable to be consistent to our stated principles, which is that people shouldn't be treated as criminals when they have previously engaged in conduct that we have decided is no longer criminal. And as I said, Senator Brewer I think agrees in principle on this. I know when it comes to a lot of these kind of conversations, there are a lot of competing parties as he's got AM1757 here, he has AM2106, which are his attempts I think at making changes to this bill to alleviate certain groups' concerns about the bill. But one of the, the guiding principles of the criminal justice system and of our laws needs to be recognizing when we've previously overly punished people, I guess. And so just to, to revisit, I guess, to clarify some of the things I said here. So what it would do-- well, two things. One, it would say that if we repeal a section of the law, that that person is not automatically-- does not automatically have those charges set aside and expunged. What it does is it creates a mechanism for rebuttable presumption. So it says they can go into a courtroom and they can say this is the conduct I was convicted of is no longer a crime and, therefore, that, that means that the court should set this aside. The court still has the discretion not to set that aside, and the court has the discretion to look at the other factors that are considered under the current expungement statute and the current set aside, which is including the length of time since the offense finishing your, your time, your punishment and other conduct after the fact. And this amendment also has some language that clears up-- clarifies how the expungement statute works in, in general principle, meaning that there are individuals-- we currently have an expungement statute that allows for set asides under all of these other circumstances that this Legislature actually I think did put some more teeth into a, a year or two ago. But we're having a problem where it's not actually having an effect, meaning that if people are getting a set aside and expungement and it's not actually sealing the record. So we put up some cleanup language in there as well that is actually-- it was not in the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

original bill, it came up at the committee hearing for LB1051. And so we are making sure that if somebody does, if we do pass this bill, if somebody does go into court, if we do, the person does successfully assert their right to have their record cleared going forward that then they get it sealed. And so then that, that actually has the effect that we're intending. And so all, all around, what AM1794 is saying, if we're going to undertake any kind of action like this that we have to consider all of the intended circumstances, all of the things that go along with changing the criminal code as well. There are a lot of other things to consider and we'll talk about them today and probably tomorrow would be my guess. But one of the fundamental things to think about is how we treat people who have been affected, who have been covered under the current state of the law, and how their relationship to the law changes if we change this. And we need to make sure we consider those things as we go forward and we maybe make some other corrective actions, maybe not this year, but other years in terms of conduct. Ultimately, if we were to say legalize marijuana in the state, we need to be considering how we go forward and, and make sure that people who have been previously convicted under the, the statute as it stands today were treated or are treated going forward. And so that is why I introduced this bill, this amendment and this bill originally and why we had the hearing and what the people talked about at that hearing and why I've brought it as an amendment today. And again, as I said, this is a sincere amendment that I think is something that needs to be contemplated as part of any change to the statute of the nature that is being contemplated under LB773. And so I hope I can get everybody's support on this amendment to AM750-- AM1757. And I appreciate that. Thank you, and I'll talk later.

WILLIAMS: Thank you, Senator Cavanaugh. Debate is now open. Senator Matt Hansen, you're recognized.

M. HANSEN: Thank you, Mr. President and good morning, colleagues. Already, there's so much I kind of want to say and get to and talk about. I do think we're going have a good discussion, including some of the context of civil rights, civil liberties, the context of what reasonable restrictions can the state do? What is the role of the state? What is all sorts of things already that just upon listening to the first three speakers I want to address. I did want to talk about, and I think it's fitting kind of two things that I remember Senator Brewer mentioning in his introduction. One is he compared the right to own a firearm to the right to vote. And I want to just remind people that the right to, to vote is something that we do in fact limit and do in fact take away from individuals. Most notably, we take away from

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

individuals convicted of a felony, a felon disenfranchisement. This is common across the country. Some states don't. Some states are much more generous with reinstatement, some states like us are kind of in the middle. And so that's just even an example is if you hold up voting as this right and hold up gun ownership compared to that and say, well, we wouldn't ever put restrictions on voting. Well, colleagues, we do. We do. We put considerable restrictions on voting. We put considerable restrictions on it and continually see more restrictions, in my mind, being proposed and being offered. So when we start with that as the, the comparison, we start with that as the, the analogy, we're already starting with a pretty regulated and somewhat restrictive topic. That is when we talk about a right, we've seen how that right can be limited, can have requirements put on it, can have registration requirements put on it, can have all sorts of things on top of it. Additionally-- and I know we'll get into this kind of the notion of the difference between, you know, somebody who will follow the law, a law-abiding citizen and a criminal. Colleagues, we are the body who decides where that distinction is for the state of Nebraska. And the difference between those two groups isn't a set binary that starts at birth. It's not just two groups of people. Some will always follow the law. Some will never follow the law. These are people making decisions throughout their lives in any given day and can slip from one category to another. That's how this works. That's how it works. You know, everybody starts in the default category of law abiding until they make a choice. They make a mistake. They make some sort of action that puts them into the other category. And that is why some of the requirements in concealed carry makes sense to me, such as the training requirement and the understanding of obligations to society in if we're going to say you can carry a concealed weapon. And to say that there's some people who are already going to conceal-- carry a concealed weapon and we're, and we're putting restrictions on law-abiding owners, well, law-abiding concealed carry permit owners now can, say, be stopped and frisked by a police officer, show their concealed carry permit and get to go home. People who are stopped and frisked by a police officer, have on a concealed firearm and don't have a concealed carry permit get the weapon seized and go to jail. I mean, we've already created a distinction between those two groups. So saying that like, you know, one group is being burdened by the current law versus the other, we can talk about which group is truly being burdened. And in my mind, you know, it's the penalty we carry for that, in part for just collective safety. Colleagues, Senator Morfeld has already laid it out. You know, there's been some discussion that there's an amendment coming. I think it's Senator Brewer's next amendment--

WILLIAMS: One minute.

M. HANSEN: --that he's worked on with some police. And I do appreciate that Senator Brewer has worked on that issue and worked with that group. I don't believe it gets my police department here in the city of Lincoln away from their opposition. And again, I don't think it even brings the Omaha Police Department into support just into a neutral place. And in order to do that, circling back full circle, in order to do that to get the Omaha Police Union and police agency neutral, we're increasing criminal enhancements which will go back to what I originally started with, with more people convicted of a felony and more people losing the right to vote. These all blend together in a certain way. And I understand we're going to have plenty of time to talk and discuss, but when we're talking about this balance, when we're talking about where this line falls, keep in mind that when we're using these stiff examples, kind of making one policy choice here, pulling on one policy lever over there, it is going to impact the other one. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Hansen. Senator Hunt, you're recognized.

HUNT: Thank you, Mr. President. Good morning, colleagues. I think I'll probably support AM1794 from Senator John Cavanaugh and oppose LB773. So for those of you at home with your little tally marks, you can put that on there. But I support the Second Amendment and I think that we fall into a trap that has been a recent scourge of division on our country when we say if you don't support a radical bill like LB773, then you don't support the constitution, you don't support gun rights. Everything is not black and white like that. You go through life and you have experiences and you realize that there's a lot of gray area and there are reasonable restrictions and regulations that we put on different rights. I support the Second Amendment and I'm also a pragmatist and I see that we are living in a very different world here in the United States than we were living in when the constitution was written. We've changed the constitution so many times to better reflect the type of world that we live in. Think about the types of guns and weapons and self-defense tools that the Founding Fathers had. The framers of the constitution could not conceive of a gun that could kill at the rate of weapons that we have today. Would the framers say that a domestic abuser buying an automatic rifle at a gun show with no background check is a well-regulated militia? Do you think when they said well-regulated militia, that's what they could have conceived of in 2022? I don't think so. I think the world has changed. And so that's why I say, let's be pragmatic about the laws that we pass and the policies that we stand for here in Nebraska, and that doesn't mean

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

we're against the constitution. It means we're striking a balance and we're creating policy for the world that we actually live in, not for the world of 1776. I know there are people in this body who have experience building guns illegally and giving them to others under the table. Is that a well-regulated militia? Is that what the framers intended? As lawmakers, we get to decide what the law should be. What's going to be good policy for all of Nebraskans? For one thing with LB773, I have a local control problem, and Senator Wayne is, is one who often kind of brings up the hypocrisy that we sometimes have in this body about what should be local control and then what should we control from, from the state level and the, the imbalance between those. But I think that I'm pretty consistent on my views on local control. If AM1757 is such a compromise amendment, why is Lincoln law enforcement still against it? It brought Omaha's law enforcement to neutral, not even supportive. And Lincoln is still in opposition. So those are issues of local control that I have a problem with with LB773. And I also think we have to recognize that unfettered access to guns and the kind of dogmatic Second Amendment absolutist view that I don't-- I, I see as a difference of opinion. I mean, I don't think it's like wrong, quote unquote. I just don't agree with it. But the Second Amendment absolutist view that's shared by some people in this body has led to a public health crisis in this country. Gun violence is a scourge on our society, and it is a public health crisis in this state and in this country. When we can't shop or go to school--

WILLIAMS: One minute.

HUNT: --or worship or learn without the threat of a mass shooting, then that affects each one of us in this country. And to talk about rights, Senator Matt Hansen made the point that I was going to make about rights and voting, we put all kinds of restrictions on voting, many of which I stand against. I might be kind of a voting absolutist, colleagues. If it's OK to have a Second Amendment absolutist, you might call me a voting absolutist. I think we should let felons vote. I think we should let people vote in prison. I don't care. I think that if politicians had to care about what prisoners thought, what incarcerated people felt about policies, and had to see them as a voting bloc, we would see very different policies in the state and they would have to weigh in on some of the problems that got them there in the first place. And that would be a really good thing in my opinion. Smart, reasonable people can disagree with that while recognizing that I'm still a smart, reasonable person, too, and we don't agree. I think it's the right of black women to not be fired.

WILLIAMS: Time, Senator.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

HUNT: Thank you.

WILLIAMS: Thank you, Senator Hunt. Senator Machaela Cavanaugh, you're recognized.

M. CAVANAUGH: Thank you, Mr. President. Good morning, colleagues. I don't think I would have supported AM1794 as a stand-alone bill. But as Senator John Cavanaugh said, if this is to pass, then we should eliminate the penalties that are associated with this currently. So I will be voting for the amendment. And I also just helping people count at home, I am opposed to LB773 and I am opposed to AM1757. For those watching at home, I just want to make something very clear about how you're going to see me in this debate. I am going to be very restrained in what I say. I am not going to talk about the merits or the issues with this bill. I am going to just probably read the language that's in the bill. And that is because there are people up in the balcony here that are here advocating and in support of this bill, which is fine. But we haven't taken zero precautions to ensure that there are no deadly weapons up there. And when we had the red flag bill here and the Capitol had lots of people in it with guns, we closed the balcony because, as I was told, it's like shooting fish in a barrel. So I don't, I don't want to do this this way, but I want the people at home to understand that my voice is being impacted by the decision to not close the balcony. And Senator Hunt talked about mental health. I still, to this day, very much struggle with that day of hearings where I had people with loaded weapons sitting behind me as I was introducing a bill that they were opposed to. I don't object to guns, I'm not their biggest fan, but I don't object to people having the right to carry guns. I do think that they are dangerous and that people should be well-protected and trained to have them. I don't-- I'm actually-- I'm just going to-- how much time do I have?

WILLIAMS: 2:20.

M. CAVANAUGH: OK, I'm going to just start reading what this amendment is. So this is AM1794. I actually don't think I have that. Oh, no, I do. OK. "For purposes of this section, concealed weapon offense means: A violation of section 28-1202 as it existed on or before January 1, 2022; or Attempt conspiracy, solicitation, being an accessory to, aiding and abetting, aiding the consummation of, or compounding a felony with a violation described in subdivision (1)(a) of this section as the underlying offense. At any time following the completion of sentence or disposition, a person convicted of a concealed weapon offense or adjudicated in juvenile court for a concealed weapon offense may file a motion to set aside such

conviction or adjudication. The motion shall be filed in the county, district, or separate juvenile court in which the movant"-- I don't-- I'm not familiar with that word-- "was convicted or adjudicated. In determining whether to set aside the conviction, the court shall consider: The behavior of the movant"--

WILLIAMS: One minute.

M. CAVANAUGH: I'm probably mispronouncing that, so I'm sure the other Senator Cavanaugh can correct me later. "The behavior of the movant after completion of a sentencing or disposition; The likelihood that the movant will not engage in further criminal activity; and Any other information the court considers relevant. There shall be a rebuttal presumption that the movant is entitled to relief under this section if: As a result of the changes made in section 28-1202 by this legislative bill, the movant's conduct underlying the conviction or adjudication for a concealed weapon offense would not be a violation of section 28-1202. Section 28-1202 is amended by the Legislature such that the movant's conduct underlying the conviction or adjudication for a concealed weapon offense would no longer be a violation of section 28-1202;" or Section 28-1202--

WILLIAMS: Time, Senator.

M. CAVANAUGH: Thank you.

WILLIAMS: Thank you, Senator Cavanaugh. Several of our Omaha senators would like to welcome 13 students and 6 teachers of the Nebraska Civic Leaders, Omaha Public Schools. They are located in the south balcony. Would you please stand and be recognized by your Nebraska Legislature. Returning to debate. Senator Blood, you're recognized.

BLOOD: Thank you, Mr. President. Fellow senators, friends all, I actually stand in support of Senator Cavanaugh's amendment. I'm on the fence with Senator Brewer's amendment, but I'm going to be asking him some questions here shortly that I hope he can help clarify what the amendment actually means. I do want to say up front, and I think Senator Hunt touched down on this a little bit, when, when people are asked to, to make columns that say pro or con or neutral, I just think language like that further divides us on an issue that is already an issue that tends to divide us. I, I think Senator Brewer would likely be one of the first people to say that I'm a very pragmatic senator, that I actually listen to the debates. I actually read the bills and I actually don't come to the floor often knowing exactly how I'm going to vote. I want to have something compelling said to me to let me

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

understand and better understand why things are important. And I lived in rural Nebraska. I know why it's important for many to have guns in rural Nebraska. I know law enforcement can be far away. They need it for protection. They need to put animals down. They need it for hunting. I get it. But I got to tell you, I got some wacky calls on this. When somebody calls me from a town of, like, 400 or 500 people and they're telling me they need this bill because they have thugs with guns, I want to know what's going on in rural Nebraska, guys, if you've got thugs out there. I got a couple of calls, and that was the exact terminology that was used, so I was a little confused by that. Maybe since I moved from rural Nebraska, things have changed. You got gangs or something going on, but I don't know. With that, Senator Brewer, would you yield to a couple of not-hard questions?

WILLIAMS: Senator Brewer, would you yield?

BREWER: Yes, I would.

BLOOD: Senator Brewer, what was the NRA's opinion on AM1757? Were they pro or con on that?

BREWER: I would say they were con.

BLOOD: Can you walk me through why that is? I think I know why, or I wouldn't be asking that question.

BREWER: Yeah, it's, it's actually not, not this one. Remember, the one that I just briefed was on age 21. That one they're OK with, it's the follow-on one, which is AM2106, is probably the one you meant.

BLOOD: OK. So I know we're going to get to that. Can you kind of walk me through that?

BREWER: Yes. Essentially, the issue there is they would like to see no restrictions, and that amendment would put the current gun registration in Omaha would leave it in place with some changes.

BLOOD: So do you have concerns when we have a patchwork of laws across the state of Nebraska to try and appease one entity over another?

BREWER: Well, I would say that, that was a local control issue. They asked us to work with them. They explained some of the challenges they have and what they needed to protect their officers, and I just, I felt obligated to work with them.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

BLOOD: OK, fair enough. So what about reciprocity in other states? Will folks still need to obtain permits if they want to have that reciprocity?

BREWER: Well, the reciprocity you're going to need to have your concealed carry permit and it has to be current and has to be in your possession if you're going to have reciprocity in other states.

BLOOD: So this bill wouldn't change any of that. That's still something that they're going to have to do. Is that correct?

BREWER: That's correct. The only thing we did is carried over all of the requirements for concealed carry with the constitutional carry. So as far as where you can take a firearm, the need to notify law enforcement or first responder, all that stays the same so there's no confusion.

BLOOD: OK. The other question I have is in reference to page 15, line 17 and 18. So--

WILLIAMS: One minute.

BLOOD: And I may have to come back and circle on that because I don't think you'll be able to answer that within a minute. So with that, I will circle back on that question. So I'm going to go back into the queue. But I still see some problematic language that I want to discuss on the mike. At this moment, I'm not sure where I stand for those that who are allegedly doing the column, but I'm going to make my decision based on debate and facts. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Blood and Senator Brewer. Senator Clements, you're recognized.

CLEMENTS: Thank you, Mr. President. I rise in support of LB773 and AM1757, but in opposition to AM1794. I believe AM1794 is too broad. It wasn't worked out with all parties or the introducer and needs to be worked on more, maybe over the summer if he wants to try to make an amendment. We have a handout here, which talks about 21 states already recognize constitutional carry. I see that Wyoming, South Dakota, Iowa, Missouri, Kansas all have enacted this in recent years. And I think the reason is that people have finally started reading their own constitutions. And I would like to read from the the Constitution of the State of Nebraska, page one, it says: Of 1875, all persons are by nature, free and independent and have certain inherent-- inalienable rights. Among those are life, liberty, the pursuit of happiness, and the right to keep and bear arms for security or defense of self,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

family, home and others, and for lawful common defense, hunting, recreational use and all other lawful purposes. And such rights shall not be denied or infringed by the state or any subdivision thereof. So I think other states have recognized that's probably in their constitution also, and I stand in support of the constitution and this bill. I yield the rest of my time to Senator Brewer.

WILLIAMS: Senator Brewer, your yielded 3:10.

BREWER: Thank you, Mr. President. Thank you, Senator Clements. I, I got to correct some things here because first off, Senator Blood is very diligent and does read through and, and we all should be better at reading through bills like she does. So that's, that's the part I agree with. The part I don't agree with is the comments by Senator Cavanaugh. Everyone was checked that went in the balcony by the State Patrol. There are no guns there. Her comments simply take away the voice of the second house. If you can't sit in this body and deal with the fact of who is in that balcony, then you shouldn't be in this body. We are here to represent our districts in the state of Nebraska. And if you can't handle the fact that some people may not agree with you, then I would really do a gut check right now whether you're in the right place or not. All right, you've heard some of the testimony so far. I've asked the ones that truly support this bill to stay out of the queue as much as possible. Because I think the ones who truly are showing their colors, and you're seeing them, they're coming to the mike and they're talking. So let's, let's listen for a little bit. We've got lawyer, lawyer, lawyer. There are issues that people want to say about this that sound good but aren't true. But what happens in this body? It doesn't matter if we are telling the truth. Whatever feels good, just go to the mike and say it, sounds good. Someone that's listening on TV might not realize it. Then it becomes the gospel because you said it, you're a senator. When we get into the amendment, we'll talk more. But so everyone is clear on this, the second part of the amendment that we're going to announce in AM2106, it covers-- we'll call them all covered offenses in this amendment. A person who is committing one of those crimes would not have the right to carry concealed--

WILLIAMS: One minute.

BREWER: --at this time. That means that if they are covered of one of these crimes while carrying, then you still will be charged with carrying a concealed weapon. This, this is not an enhancement. Now, maybe because it's a lawyer tells you that or not. But we spent a lot of time working with the city attorney in Omaha and the police to get

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

this right. We'll talk more about why Lincoln's not in this and why they didn't come to the table. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Brewer and Senator Clements. Senator Pansing Brooks, you're recognized.

PANSING BROOKS: Thank you, Mr. President. Well, first of all, I, I want to, as another lawyer standing up, I just wanted to say that I truly appreciate Senator Brewer. And, Senator Brewer, I, I just want you to know that I've been with you when you've had your guns and there's no one in the whole world that I would rather be with than you. If there's any catastrophe, if there's any calamity, I'm running straight to Senator Brewer's house, that's for dang sure, because Senator Brewer knows what he's doing. He's been trained better than anyone. And I think that sometimes, you know, we get into a bubble. And as he said, there are lawyers standing up and we get into our bubble and the people who support having the concealed carry at all times also get into a bubble. And Senator Brewer is used to being with military people who are fully trained, and I'm grateful for those people. One thing I don't think you want is me running around with a gun, a concealed carry gun. Senator Brewer is smiling about that. I think he understands why. So I just would like to say that there are a number of things. I, of course, am going to repeat Heller, which I have done every time I talk about this on the mike and conservative senator-- or sorry, conservative Justice Antonin Scalia said: Basically, not every gun in every time at every place. I would like to read from the Heller Opinion, which was later adopted and, and, and validated to the states through the McDonald v. Chicago program in-- sorry, the McDonald v. Chicago case, in 2016. Scalia said: Like most rights, the rights secured by the Second Amendment is not unlimited. From Blackstone through the 19th century cases, commentators and courts routinely explained that the right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose. For example, the majority of the 19th century courts-- for the majority of the 19th century courts to consider the question held that prohibitions on carrying concealed weapons were lawful under the Second Amendment or state analogs. They went on-- he, he goes on to say: Although, we do not undertake an exhaustive historical analysis today of the full scope of the Second Amendment, nothing in our Opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons mentally ill or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions on qualifications on the commercial sale of arms. Further, it goes on-- Miller [SIC] goes on to say: As we have explained, that the sorts of weapons protected

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

were those in the common use at that time. So this is not an absolute right. I'm a total supporter of the Second Amendment. It's part of our constitution. I am an advocate and will fight as hard as I can for our constitution, for its amendments, for our democracy. But I am very concerned if we have everyone running around with, with concealed carry weapons, I'm concerned about that. Senator, Senator Brewer, could you answer a couple of questions?

WILLIAMS: One minute. And Senator Brewer, would you yield?

BREWER: Yes.

PANSING BROOKS: Senator Brewer, there's, there's discussion about the common usage of weapons. Does, does your bill change that at all? What kinds of weapons can be concealed carry?

BREWER: Well, it specifies weapons, which would include handguns or knives.

PANSING BROOKS: OK, does it include-- could it be a AK-47 under a long trench coat?

BREWER: No, that wouldn't be considered a concealable weapon.

PANSING BROOKS: Well, I'm just checking. That's good. OK. So it's the general common knowledge and weapons because people talk about protecting themselves from a militia. We're talking about bombers who would come, or tanks that would come and infiltrate our country. I, I just-- there's a difference in the weapons that we can use and we need to have our military, which is strong, fighting to protect us. And I just didn't know what concealed carry means--

WILLIAMS: Time, Senator.

PANSING BROOKS: --here.

WILLIAMS: Thank you, Senator Pansing Brooks and Senator Brewer. Senator John Cavanaugh, you're recognized.

J. CAVANAUGH: Thank you, Mr. President. And so I-- we're still on my amendment to, to remind people. I know everybody's got feelings and things they want to say about this issue in general. But I just wanted to kind of go back and walk through a few and Senator Machaela Cavanaugh just read part of this, and I've had some questions off the mike that I thought would be helpful for individuals. So Senator Cavanaugh read, the other Senator Cavanaugh read, the portion of the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

statute that kind of goes through what is the process for someone to get one of these expungements? And so what-- we already have a process in place for expungement for certain offenses, which are people who do a sentence of-- are sentenced to offense for less than a year or certain offenses that have a fine. And after you complete your sentence and then you can come to the court after all those things, completing your sentence, paying your fines and fees and those sorts of things, you can go to the court and petition the court for a set aside and expungement. And then they take into consideration certain things which include, as Senator Machaela Cavanaugh read, but the likelihood that the person will not engage in further criminal activity. So this is part of the, you know, you go in front of a judge. You file a petition, you go in front of a judge, they sit there and they can ask questions and you put it basically a court hearing and then any other information they consider relevant. And then what this bill does, this amendment, AM1794, adds that there shall be a rebuttable presumption that the movement-- movant, which is the individual asking for this relief, is entitled to relief under this section if the results and changes made to section 28-1202 by the Legislature would make the conduct they were convicted of no longer a violation. So basically what it says is if the Legislature chooses to make previously unlawful conduct lawful, that a person going to court, they still have to, they still have to petition. They still have to go in front of a judge and the judge hears all of the other evidence. And on top of that they hear this rebuttable of presumption that they are entitled to this. The judge is not required to grant that relief at that point in time. That this is just adding this on top as a reason why that they should grant that relief. But what that relief means is you get this expungement-- or set aside and then expungement and seal your, your record. It is not a pardon. It does not get people out of jail, meaning that if we repeal any sections of 28-1202, someone who is currently sitting in jail on that offense or sitting in jail when this goes into effect will not be released. No one will be released from jail as a result of passing LB773 or AM1794. It will not change whether or not law enforcement has access to that information. So a set aside and expungement seal means when you go and apply for a job or an apartment or something along those lines that it would not show up on your record. It does not-- it still means it is available to law enforcement for purposes that when they look at your criminal record, when they look at somebody's criminal record when they pull them over, when they come into contact with them when they-- if they are subsequently charged with some other offense, it's still available to law enforcement for that purpose. It is still available to prosecutors and the criminal justice system for purposes of enhancement and any

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

other subsequent offenses, which we'll talk about some enhancements probably when we get to the, I think, the next amendment to this bill or one of these other amendments that'll come down the line. But so it does not change how this person interacts with-- an individual interacts with the criminal justice system, how they interact with law enforcement. It is a civil remedy. Because the Legislature, we do not have the ability to change ex post facto meaning after the fact. We cannot decrease penalties. We cannot change in terms of incarceration. The Governor-- that is reserved--

WILLIAMS: One minute.

J. CAVANAUGH: --for the Governor-- thank you, Mr. President-- for things like pardons and the Pardons Board. So this is purely a, a statement that this is the-- what we can do as a Legislature when we make these sort of policy decisions and will talk about that later about whether what policy decisions are the right ones to make or not? But when we make those policy decisions, what other things go along with that and that is what AM1794 is saying. That when we make policy decisions, they have ripple effects that go out into other places and we have power to address some of those ripple effects. AM1794 simply is doing what the Legislature can to address these, these civil remedies. The, the ripple effects associated with when we take these kinds of actions. So I would appreciate, I think AM1794 does make this a, a better bill. Again, will talk about my issues with the bill later.

WILLIAMS: Time, Senator.

J. CAVANAUGH: Thank you, Mr. President.

WILLIAMS: Thank you, Senator Cavanaugh. Senator McKinney, you're recognized.

McKINNEY: Thank you, Mr. President. I rise opposed to LB773, AM757 [SIC--AM1757]. But I support AM1794 because I do believe that if this bill is passed that we should clear the records of individuals that have concealed carry violations. And I would have supported LB773 until AM757 [SIC--AM1757] became a thing because I don't think we should carve out anything for the Omaha Police Department that discriminates against black people in Omaha. And that is specifically why they came opposed to the bill because they stated that they-- this would take-- if LB773 in its original form was passed, it would take away their ability to target people in the community. This is a fact. If you didn't know, Omaha-- well, Nebraska has the 10th highest black

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

incarceration rate, and black people are nine times-- 9.5 times more likely to be incarcerated than white people and people of color make up a high percentage of the individuals inside of our prisons, and our black incarceration rate in the state of Nebraska is 50 percent higher than any black incarceration rate in the United States. And I'll just say this to say that, you know, at the beginning, it was like those who stand up against this are opposed to the Second Amendment. I'm not. I have a CCW permit myself. I talk to my friends and family about getting a CCW permit because as a black person in America, it is dangerous every day to walk outside your house. But I'm not in support of allowing a police department that discriminates. Just look at the data. This is truth and that, that is a fact when you look at the data. I don't think we should be doing that. Last year, the other gun bill was ruled unconstitutional because it was pretty much a carve out for Omaha, and that amendment pretty much does the same. And I would love to see if that's unconstitutional because it-- if the constitution says we should have the right to bear arms or whatever else it says, then that doesn't mean we carve out something to protect a police department that over incarcerates and discriminates against individuals, especially in my community. That's what I have a problem with. And that's something we have to think about. But if this bill does pass, we need AM1794 to be amended on to it because those records need to be cleared. And for another reason, we have a DNA bill that I think is sitting on Final and if that was to pass, that's something that's going to disproportionately affect people of color. So if we pass this bill without AM1794, we're going to still allow the police departments to target black people. Then we're going to allow them to target them and take their DNA. Do you not understand how easy it is to get a noncompliance offense or a disorderly conduct? Most of these individuals that work in the community are not culturally competent. They don't care. They're disrespectful and a bunch of, and bunch of other things. So that's why I cannot support the bill. I would, but OPD likes to disproportionately target black people, plain and simple, and that's why I can't. That's why if this bill was to pass, we need AM1794. So you could get on the Internet and say I'm opposed to the Second Amendment, but I'm not. I'm just opposed to allowing a police department to discriminate. And that's, that's all it is, honestly. Thank you.

WILLIAMS: Thank you, Senator McKinney. Senator Slama, you're recognized.

SLAMA: Thank you, Mr. President and good morning, colleagues. I rise today in strong support of LB773, AM1757, and in opposition to AM1794. As a supporter of the Second Amendment, a gun owner, holder of a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

concealed carry permit, and since it's been brought up today, as a proud supporter of our men and women in law enforcement. I think it's important as we're talking about constitutional carry to get to the core of what we're talking to on the floor. And that is the text of the Second Amendment: A well regulated militia, being necessary of a free state, the right of the people to keep and bear arms, shall not be infringed. Those last words, the right of the people to keep and bear arms, shall not be infringed. Did I miss somewhere when I was reading the Second Amendment, it's very short, the part where we're required to pay \$200 and take a class to exercise those rights? Like, do we require taking a class before you exercise your freedom of religion, your freedom of speech before you invoke the Fifth Amendment on the stand? About half of the states in the United States have some form of constitutional carry already in place, and you think that CNN wouldn't be camped out if those states that passed a constitutional carry law saw a spike in gun violence? Of course they would be. But the problem for that narrative of if you pass constitutional carry, the bad guys will have all the guns. Is that, one, the bad guys already have access to the guns, and, two, states that have passed constitutional carry have not seen an increase in gun violence. That is true almost entirely across the board and in the states where there has been a small increase, there have been clear other issues that have contributed to that problem. And while I'm at it, I'm not going to take my full five minutes, and a few minutes, I'll turn over to Senator Brewer. AR-- when you're talking about AR-15, it's been brought up today a few times. That doesn't mean assault rifle or automatic rifle. It means ArmaLite rifle, the company that developed it in the 1950s. So I'm not a lawyer yet. I'm not a constitutional expert, but I do know a thing or two about guns. And with that, I'll yield the remainder of my time to the leading expert on that subject on this floor, Senator Brewer.

WILLIAMS: Senator Brewer, you're yielded 2:40.

BREWER: All right. Thank you, Senator Slama. All right, one of the issues that constantly comes up here is the issue of training. So one of the things that we got to discussion as we're trying to shape this so that the bill would be more acceptable, we went to the Nebraska farm owners association and said, hey, how can we, how can we help have it in a usable way that folks can have training? And what they came back was with an idea that we could have training across Nebraska, have the training free. So they went about finding instructors and, literally, in one of the shortest periods I've ever seen, they were able to come up with 20 instructors that we can use across the state to do free training so that if you're someone who

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

doesn't feel comfortable with their level of training, you would be able to do it at no cost. Now, when the term is used, that I support the Second Amendment, let me just take a deep breath and say, what does that mean to me? What that means is I teach hunter safety. I teach youth. I teach NRA members, concealed carry. You live it. You don't just say that. So understand that, that saying I support the Second Amendment--

WILLIAMS: One minute.

BREWER: --is, is an easy statement to make. But if you're going to actually do that, you need to take action to show that this means more than just an individual thing for you, but that you want to help others to be safe and to be well trained. And I think that's the real heart of saying that you support the Second Amendment. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Brewer and Senator Slama. Senator Friesen, you're recognized.

FRIESEN: Thank you, Mr. President. I stand in full support of LB773 without any amendments. When I look at-- I've, I've been a shooter for 30, 40 years. I love target shooting. I don't carry concealed, but I have a permit and I appreciated the, the education that came with that. But at the same time, I feel that there's people that can't afford the process of going through that, and they should still have the right to carry a firearm if they so choose. I look at this is it doesn't-- in the big picture, it doesn't matter if your firearm is concealed. No one will know if you have one. And that's what criminals do. They shove it in their pocket and you don't know that they have one until they do something bad with it. And that is the whole thing here is, is you can regulate this all you want, but you will not stop the criminal that has burglarized a home or a gun shop and stolen a firearm, shoved it in his waistband or his pocket. This permit doesn't matter. It doesn't stop anyone from doing that. They're going to take it into these gun-free zones. I don't think they, they check their gun at the door when it says no gun on a-- no guns allowed. It's just like advertising. And that's the whole premise behind this. It's, it's, it's like it's doing something and it doesn't. It makes people feel good. But criminals don't care about any of that. And for someone who suddenly feels the need that they're in danger and wants to carry a firearm and suddenly has to go through the permitting process, that's too long. And I don't think it's the-- again, you can have people who have a concealed carry permit do bad things with guns. That doesn't stop it either. So I fail to see the need for some of this. I really

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

do. I, I-- until someone has done something wrong, they can lose that privilege. I agree with that. And the penalties for using a firearm or causing a physical harm with a firearm, you could extend that longer if you want. That's not what guns are for. So I do support the bill. And with that, I'll yield the rest of my time to Senator Brewer.

WILLIAMS: Senator Brewer, you're yielded 2:20.

BREWER: Thank you, Senator Friesen. Again, I wanted to pick up on where we left off with training. We want to make it so that if you want to carry concealed and you do not feel comfortable with where you are in life, with your safety skills, your handling skills, that there's a path where you can go without cost in order to get training. So right now of those that have volunteered, we have 40 of the 49 legislative districts covered. Now they did that in pretty short order. So I think with time we can have enough volunteers that we have all 49 covered. So the issue of training is simply the desire of an individual to actually do the training. Now I agree with Senator Pansing Brooks that some people should not carry concealed. The issue is if you open carry, that makes people uncomfortable. And yeah, it's you're right. It's in Nebraska law, but you also put yourself at risk that someone bigger and stronger may decide to take that from you.

WILLIAMS: One minute.

BREWER: They know you have it because it's openly carried. Concealed carry gives you the ability to protect yourself and your family and do that in a way that no one else feels threatened. And again, this is a right, not a privilege. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Brewer and Senator Friesen. Senator Morfeld, you're recognized.

MORFELD: Thank you, Mr. President. Colleagues, I want to start where I left off a little bit earlier here. But first in talking about the opposition on the pull motion I talked about, my opposition being-- well, for several reasons, but one of the reasons was, was not only was our Police Department in Lincoln opposed, but also our Police Union is opposed, and I thought that I should read into the record our, our Police Union letter that was in opposition because I think it succinctly gets to the point: Regarding LB773 opposition. Senator Brewer and members of the Judiciary Committee, the Lincoln Police Union is opposed to LB773. This legislation would embolden criminals to carry weapons frequently and limit law enforcement's ability to prevent violent crimes. It's difficult to say how many violent crimes

have been stopped from an arrest for carrying a concealed weapon. But even if it's only one, it's worth it. Our current CCW law and permit process is necessary to provide training and certification to citizens who wish to carry concealed weapons, and anything short of that would create unneeded recklessness. End of the letter. We heard testimony from the Lincoln Police Department, from the Lincoln Police Union, and other folks having extreme concerns with this. To date, I have not seen any of those folks that came in let me know that they are now in support of this legislation with the amendment. That doesn't exist. One of the agencies went neutral, but my understanding is, is that there are still concerns among some of the rank and file. So if we're talking about police support here, there is not police support from the folks that came in, came in in opposition to this legislation, and there still is not support for the actual amendment. Now, you can look at the amendment as being either enhancements. I think a better way of actually explaining it is that they are new crimes, essentially. So we would be able to stack new crimes on top of those other crimes that they would be charged with. So when we're talking about prison overcrowding, we're basically creating 20 new crimes in addition to these other crimes. But we'll talk about that in a little bit. Getting back to the constitution, again, constitutional rights are strong rights, but they are not absolute rights. Constitutional rights can have reasonable restrictions and limitations on them if there is a compelling state interest. And the Supreme Court has found time and time again and we'll read some of the case law on that. They have found time and time again that there can be reasonable restrictions on constitutional rights. Some of my colleagues brought up voting rights earlier. As many of you know, I'm very passionate about voting rights. In Article I, Section 22 of our constitution, our state constitution: Elections to be free. All elections shall be free, and there shall be no hindrance or impediment to the right of a qualified voter to exercise the elected franchise. Now a bunch of folks that hold that constitutional right in our state constitution very strongly could easily say any restriction whatsoever on the right to vote is a violation of our state constitution. But we all know that that's not true. We all know that the state in the Legislature, whether we like it or not, can put reasonable restrictions on constitutional rights if there is a compelling state interest. There has been a compelling state interest found with voting, whether we like that or not, in terms of allowing for there to be reasonable restrictions. And there is a compelling state interest when it comes to the Second Amendment that the court has found as well. So, colleagues, you can be in support of the Second Amendment. You can be in support of Article I, Section 22 of our state constitution and still be in support of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

reasonable restrictions. That's the thing that we need to realize, recognize, and talk about. Now if you--

WILLIAMS: One minute.

MORFELD: --have a strong litmus test personally as to what constitutes an Article I, Section 22 supporter or a Second Amendment supporter, then that's fine. But I will tell you, as a person who is a gun owner, a CCW holder, owns multiple firearms, I find myself to be in support of the Second Amendment. And if I wasn't, that be kind of weird. I am a strong supporter of the Second Amendment. I am also a strong supporter of having reasonable restrictions that are not overly burdensome on some of our constitutional rights when there's a compelling state interest. And if we're concerned about the permit fee and the training fee, I'm 100 percent in support of getting rid of the permit fee. I would prefer not to pay that and I'm 100 percent in support of providing free training that is mandatory to all Nebraskans who want to concealed carry. That's an amendment I can get behind, and that's something I'm willing to work with Senator Brewer on.

WILLIAMS: Time, Senator.

MORFELD: Thank you, Mr. President.

WILLIAMS: Thank you, Senator Morfeld. Members, Senator McCollister would like to introduce Oleh Leonchuk from the-- he is an exchange student from the Ukraine, and a sponsor Yvonne Zegers. They are seated in the south balcony. Would you please rise and be recognized by your Nebraska Legislature. Returning to debate. Senator Bostelman, you're recognized.

BOSTELMAN: Thank you, Mr. President. I have some questions for members who spoke on the mike earlier. I'm not going to ask you to, to answer my questions, but perhaps you could answer next time you're on the mike. One question I have, something I've been kind of noticing on bills coming up, people are amending their bills into bills that are a priority bill. On AM1794, Senator John Cavanaugh, when he's on the mike or he can come up to me on the side, is this bill still in committee or is this bill on the floor? That's one question I have. Also, my understanding, if I heard it right, Senator Morfeld and Senator McKinney both said they would support LB773 as it's written. Then my question to that is, if you do, why did you vote no on the pull motion? The pull motion that was there was or, Senator Morfeld, why didn't you vote for that to come out of committee since you're on Judiciary? So you can answer those questions. And I understand, I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

think Senator Morfeld said he just doesn't vote for pull motions. But he is on the committee, did he support it in committee to bring it out of, out of committee? Another thing that I hear being said here is we support the Second Amendment, but. And that's what I hear a lot on the federal level as well as we want to rewrite the constitution. And I don't think that's right. If we support the Second Amendment, we support the Second Amendment. If it's a right to bear arms, it's a right to bear arms. There shouldn't be a question with that. Who carries concealed? There's a question about who carries concealed, about carrying concealed. We're concerned about carrying concealed. How do you know who's carrying concealed? How can you identify? How do you know who those people are because it's concealed? There may be a lot of people that are your friends or that you associate with that carry concealed. You just don't know. They're talking about-- also those I think Senator Pansing Brooks brought up some of those who are mentally unfit to carry. That's already prohibited. That's already prohibited, folks. And we're talking about training, 4-H is a great tool. I'm a 4-H sports-- shooting sports trainer. You want to see, you want to see kids shoot? You want to see in our schools the kids that like to shoot and want to shoot starting with handguns, with pistols, to rifles, with BB guns, 22s? Then they-- then in sixth grade, they start shooting shotguns and sporting clays and trap. You want to see 2,006, the 12th graders come to one location, the first part of May and shoot together? You need to come out to the state high school shoot out at Doniphan, 2,000 kids come out and shoot. Not one problem because those kids have training, those kids in school. But you know what? We can't-- schools, they won't allow us to train those kids in school. You want training? It used to be taught in schools. It's not allowed anymore. Our law enforcement, you don't even want law enforcement to have a firearm in school. When I grew up, you know what? We had a shotgun and a rifle out in our car. I was trained. I, I received-- I went through before-- hunter ed when I was young. Those same kids get that type of training and adults can have the same type of training. So don't say that people aren't trained. People don't know. They do. I think it's an important thing for us to understand that this is a constitutional right and that's what we're talking about. And there's a number of states where they passed this. I yield the rest of my time to Senator Brewer. And I do support LB773 and his, and his amendment.

WILLIAMS: Senator Brewer, you're yielded 1:15.

BREWER: Thank you, Mr. President. I think we should also remember that 21 states currently have constitutional carry and there's not the end of the world there. For some reason, another four states decided to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

have it, pass it through their legislatures, and it's sitting on their governor's desk. Our Governor has agreed to sign it if we can pass it through. So this isn't reinventing the wheel. This isn't coming up with something crazy. This is something that's worked in other places. They've given the rights back to the people. Let's do the same. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Brewer and Senator Bostelman. Senator Flood, you're recognized.

FLOOD: Thank you, Mr. President and members. I had the privilege of being here in 2006 when we instituted the concealed carry bill, LB454. Senator Lathrop was here, Senator Aguilar was here, Senator Pahls was here, and I listened to probably 20 hours of debate how the sky was falling. And all of these shootings were going to happen because we were putting in a concealed carry law. I think several of you are off the mark today because you haven't read the law, Section 28-1202, 28-1202. Go to that. Look at what it says, and this has been the law for a very long time in Nebraska. It says: It is an affirmative defense that the defendant was engaged in any lawful business, calling, or employment at the time he or she was carrying any weapon or weapons and the circumstances in which such person was placed at the time were such to justify a prudent person in carrying the weapon or weapons for the defense of himself, his person, property, or family. We have had "permitless" concealed carry in this state for decades. You're closing down the bar in a small town in Nebraska. It's dark. You've got the money going to the bank. You're, you're a business owner. You're a bartender. You're a waitress. You can carry concealed today without a permit. An affirmative defense under Black's Law Dictionary says: that if found to be credible-- credible, it negates criminal liability. Section 28-1202. Check it out on your computer. Type in or Google NRS 28-1202. You can carry without a permit right now, it is an affirmative defense. And in 2016, this Legislature simply changed that same paragraph and said it shall be an affirmative defense to it is an affirmative defense. So if you want to carry concealed and you can prove that you are engaged in a lawful business, you weren't prohibited as a felon and you're carrying concealed, this doesn't have anything to do with the constitution right now because the law in Nebraska has been for decades that you can carry concealed without a permit. Now, obviously, what we did in 2006 was take the step of permitting so that under the way it's written now, you'd get arrested and then you'd get charged, and then you'd convince the county attorney that you had a lawful reason to carry that gun because you were protecting yourself, your family. But it's broadly written. What we did in 2006 is we created a permitting

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

process. But there were people prior to 2006 that would go to their county attorney and they would say, hey, my family's got a threat, we've got this problem. And the county attorney would write them a letter that they would show to a police officer. And that's how it worked before 2006. We are not recreating the wheel here. We are simply acknowledging what the statute has allowed us to do. We are celebrating, furthermore, the Second Amendment and, yes, I'm for the Second Amendment. But let's not get ahead of ourselves. We aren't reinventing any wheels. It is the law right now in this state, and it has been for decades, 28-102-- or 1202, 28-1202. I think that at the end of the day, what we're talking about is reasonable. It is in line with our-- what our existing law has been. It-- if you're on the fence right now and you think that you're pushing a button that's going to lead to more deaths and gun violence in the state of Nebraska, you should have been here in 2006, and I'm getting the legislative history. You would have thought the sky was falling.

WILLIAMS: One minute.

FLOOD: It was tragic the things that were going to happen when the concealed carry permit law went into place, there was going to be gunfire in the streets. It was awful. And then here we are 16 years later and essentially what Senator Brewer doing-- is doing is he's making it easier for law-abiding citizens to carry concealed, and we aren't really changing the intent of what our statutes have said. And I would encourage you to go back to 28-1202 because that is the law in Nebraska and there's no permit required. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Flood. Senator Brewer, you're recognized.

BREWER: Thank you, Mr. President. Since it was brought up, let's talk law enforcement. Why wasn't Lincoln brought into the discussion? Well, a number of reasons. The Chief spoke in the hearing, spoke very clearly that she wasn't going to support it. But more importantly, let me read some of the testimony so you understand where I'm coming from. So this is the Chief of Police in Lincoln, Nebraska: Allowing persons to freely carry a concealed weapon, and that means handguns, shotguns, knives and rifles, per this legislation, per this legislation, will make our jobs safeguarding Lincoln more difficult. This bill will not allow the-- this bill will allow the criminal element of our communities to carry legally as they may not be a prohibited person. I don't know where to begin with that, but then let's jump over. Question was asked by Senator DeBoer: What is the difference between a concealed carry permit and just concealed carry without the permit in terms of what you're talking about here? Chief of Police: So when

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

people feel when you have the current law, you don't-- you, you have a separation. I'm reading it. I'm not stuttering here. You have a separation of the, the, the weapon from the ammunition. That's a pause where in which you are-- you're going to take action. You actually have to think about it instead of removing it and just shooting. So you know when we talk about this, there's, there's a moment when you know danger. All right. So this is the Chief of Police in Lincoln, Nebraska, throwing-- and you can read this bill. Village idiot can read this bill and see that the rifle and shotgun is not a part of this. The other part of this is what she just described is if you're going to take your concealed weapon out and engage someone, that weapon doesn't even have ammunition in it. You have to do that first. So while you're doing that, you get to think about it. I'm sorry, but when you are so confused and out of touch that this is how you're looking at this bill, you don't get a place at the table because the opinion is under no condition. I guarantee you that the Chief of Police in Lincoln, Nebraska, just as soon not see a single gun owned by anyone in the town of Lincoln. That would make her life much better. So we can bring law enforcement into this because I have been talking to sheriffs all across my district, met with them this past weekend, and they would kind of like to have someone in the county carrying concealed because guess what? They have one deputy, one deputy on duty. Having someone able to help law enforcement would be a tremendous asset to them. You get into this Omaha and Lincoln world where you've got huge sheriffs' offices, huge police departments, and cops whenever you need them. That's a luxury that not everybody in out-state Nebraska has. The sheriffs appreciate the fact of having good citizens who are armed that can help in the event they need it. I'm not asking you to be deputized and do great things, but there are times when law enforcement are alone in the middle of nowhere and they can use some help. So understand that the voice of a few in Lincoln and Omaha, and I think you can scratch Omaha because we spent plenty of time with them trying to figure out what right look like.

WILLIAMS: One minute.

BREWER: Now there are some that seemed upset that we have spent time with law enforcement trying to get to a, a good place with them. And there's national gun organizations that have condemned me for it. Do it. Don't care. Because if we pass this law with the amendment, we lose nothing in Nebraska and the people of Nebraska get a carry concealed. That's what this is about. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Brewer. Senator Albrecht would like to recognize 12 store and regional directors from Hy-Vee. They are seated

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

in the south balcony. Would you please rise and be recognized by your Nebraska Legislature. Returning to debate. Senator Hunt, you're recognized.

HUNT: Thank you, Mr. President. Nebraska, remember that people are innocent until proven guilty. And I don't think that average citizens who aren't trained in law enforcement, who aren't trained in gun, gun use, who, you know, kind of deputize themselves to help law enforcement to stop criminals, that's a really slippery slope to be going down. And that's not something that gives me any reassurance about LB773 hearing that from Senator Brewer. I'm going to give some time to Senator Morfeld, who wants to respond to the question Senator Bostelman had of him. And also, colleagues, I'd be happy to take anyone's time. So I just wanted to make a couple of points. I support the Second Amendment because I support a, a well-regulated militia. It's not a but. I, I support the Second Amendment, and I support the part of the Second Amendment that says well-regulated militia. Everyone's holding up the constitution and reading their favorite little part of an amendment and ignoring some other part of the amendment. As Senator Morfeld pointed out, maybe you could call me a voting absolutist, as some people call themselves Second Amendment absolutists. There are other amendments. Some of you who think everyone should have the right to have a gun with no training, with no background check, because that's what you interpret the constitution to say. You want to put miles of restrictions on people to exercise their right to vote. So don't start with me on rights, I'm not afraid of people with guns, just like I'm not afraid of people voting, just like I'm not afraid of gay people having a job. I'm not afraid of black women, you know, with their natural hairstyles working a job, either. I'm not afraid of, of women who know what's best for themselves and their bodies deciding to terminate an unwanted pregnancy. I'm not afraid of trans people or trans children who need gender affirming care, so don't tit for tat on what's a right and what we're afraid of. And also don't start on what has worked in other places because all kinds of things work in other places that we don't do here in Nebraska. Emergency Rental Assistance, for example, worked fine in 48 other states. But it's not right for Nebraska. That's a load of crap. Paying workers more than \$2.13 an hour, that would work fine in Nebraska, too. It works better, it works fine a lot of other places. Allowing insurance to cover in vitro fertilization for people who want to start a family and are having trouble, that would work great in Nebraska, too. So don't say, like, like, any of us are the arbiter of authority of rights. That's why we have courts. Smart people can obviously disagree about rights. And if something is

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

unconstitutional, we don't just introduce a new law to fix that, those things get resolved in the courts, not in the Legislature. And I'll yield the remainder of my time to Senator Morfeld.

WILLIAMS: Senator Morfeld, you're yielded 2:00.

MORFELD: Thank you, Mr. President, and thank you, Senator Hunt. I just want to respond. I, I talked to my colleague, Senator Bostelman, off the mike just to create-- correct the record I should say. We can also create the record, too. But to correct the record in that I, I have not supported the underlying bill, LB773. We have not had a committee vote on this bill. We have not Execed on the bill. So I just want to note that right away. Now in terms of a potential amendment, if we were to create a white copy amendment to the bill, eliminate the fee for applying for the permit and also create a free training program across the state, I would be in favor of something like that. I'm going to read over the testimony from the Lincoln Police Chief. I need to review that myself, but I, I don't know, I may take issue with, with the, with the thought that our Police Chief is confused and out of touch.

WILLIAMS: One minute.

MORFELD: Even if that were the case, I don't think our Lincoln Police Union, our rank and file police officers, are confused and out of touch. And as I read from their letter, they have pretty strong feelings about this. And the other police agency and the other Police Union that came in in opposition, the Omaha Police Union, while they are now neutral, they're not in support. Neutral is different than support. And so there are still concerns with this legislation from our law enforcement community where gun violence is the highest. And that's why I remain to be concerned by this, and I remain a strong Second Amendment supporter and I remain a strong Second Amendment supporter that like all of our constitutional rights, there can be reasonable restrictions on them. There's even reasonable restrictions on free speech. You can't go into a crowded theater and yell fire. That's not a constitutional right. There can be reasonable restrictions on constitutional rights--

WILLIAMS: Time, Senator.

MORFELD: --when there is a compelling state interest. Thank you, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

WILLIAMS: Thank you, Senator Morfeld and Senator Hunt. Senator Lathrop, you're recognized. Excuse me. Before you speak, Senator Lathrop, we have some items to read in.

ASSISTANT CLERK: Mr. President, first of all, the Appropriations Committee will hold an Executive Session under the north balcony at 11:00. In addition to that, your Committee on Enrollment and Review reports LB436, LB698, LB769, LB804, LB820, LB840, LB864, LB887, LB998, LB1065, and LR-- LB1246, in addition, LR283CA, all placed on Final Reading. Committee on Enrollment Review also reports LB1112 to Select File with amendments. New A bill, LB910A offered by Senator McDonnell, would appropriate funds to carry out the provisions of LB910. Amendments to be printed to LB1045 from Senator McCollister and Senator Matt Hansen; Senator DeBoer, an amendment to LB741; Senator Brandt to LB741; Senator McCollister to LB1150; and Senator Machaela Cavanaugh to LB91. That's all I have at this time.

WILLIAMS: Thank you, Mr. Clerk. Returning to debate. Senator Lathrop, you're recognized.

LATHROP: Thank you, Mr. President. Colleagues, good morning. You know when we get to these bills where people feel so strongly, it makes for a tough day, and I very much appreciate how strongly Senator Brewer feels about this bill. I understand being committed to legislation you've been working on for a long time. I have a great deal of respect for how strongly he feels about it and his advocacy for his belief and in particular this bill. So it makes the debate on these things kind of difficult. I hope we avoid getting to a place where it becomes a personal thing. It certainly isn't for me. It's a lot easier for me as a lawyer and in particular a trial lawyer. I've had a lot of cases with a lot of lawyers over the years, and I win some and I lose some and I can still go out and have a drink with most of them. And that's sort of the culture or should be the culture in here. Today, we're talking about concealed carry. I have been here long enough to watch the transformation of concealed carry law in Nebraska. Right before I got here, it was the first iteration of this regulation was counties may or the cities may permit people to carry concealed. And so then we had some counties that had it and some that didn't. And the folks that, that wanted to carry concealed came in and said, we can't even understand where we can carry a gun, where we can't. We need a statewide standard. So we set up the permit process statewide and set up the, the process of acquiring a permit so that, so that there would be a statewide standard. And now we're at the what I would call the final, final version, or the, the furthest point at which you can get in the subject of legislation on concealed carry. Here we are. Over

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

the years I've watched and I've been through having served 12 years on Judiciary Committee, I've sat through a lot of concealed carry permit debates and bills that have introduced. And the one thing that I've heard over the years, we had a bunch of shootings in large churches, megachurches somewhere outside of Nebraska, and in came a bill to allow people to carry concealed into a megachurch because they were going to help sort of as an extension of law enforcement. And we also had a, a bill, I think Senator Christensen introduced it, that said, we need people in small towns. We need teachers in small towns because they may be teaching in a school far away from law enforcement and the response times. And again this morning Senator Brewer noted, and I believe this, that law enforcement in communities, sheriffs with only a few deputies appreciate the fact that there are armed, thoughtful citizens in their community and that the cops don't have to be everywhere in places like Sheridan County and places they simply don't have the manpower to cover the geography. And what that, what that suggests to me, and maybe the concern that it brings me to, is the notion that someone with a concealed handgun is somehow an extension of law enforcement. Can they be helpful in a circumstance where their own life is being threatened? Certainly. But the, the notion that they are an extension of law enforcement is a concern in this respect. Currently, the permitting process requires that someone undergo a certain, certain amount of training. That training is prescribed by the State Patrol in State Patrol regulations--

WILLIAMS: One minute.

LATHROP: --that have been passed. I have a concern for people who will get a handgun without a permit, without any training. And I appreciate, Senator Brewer, that there are people willing to train for free, but they're not required to take it. So I could go into Cabela's, pick up a handgun and with no training. And I'm a lawyer, I'm a lawyer, I understand self-defense. But the-- but there is a lot of nuance and we see an awful lot of people who with a firearm are doing things they don't have the legal right to do and somebody gets killed and now they're charged and doing a life sentence. I do have-- I do find value in the permit process that screens who may and may not. And I find value, particularly in the training, particularly in the training, so that we don't have citizens picking up a handgun--

WILLIAMS: Time, Senator.

LATHROP: --and getting themselves in trouble. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

WILLIAMS: Thank you, Senator Lathrop. Senator Blood, you're recognized.

BLOOD: Thank you, Mr. President. I would ask that Senator Brewer, please yield to a question we started earlier.

WILLIAMS: Senator Brewer, would you yield?

BREWER: Yes.

BLOOD: So, Senator Brewer, can you kind of walk me through the language on page 15, line 17 and line 18? I don't remember seeing that anywhere else in statute. And can you just kind of give me a little bit of history on why it's written that way?

BREWER: I'm assuming that you know the answer. So 15 and 16?

BLOOD: I actually don't this time. That's why I was hoping you could help me out. So minor, any person who is under 21 years of age, except if they're 18 and they're in the military, peace officer. I understand why you would do that, but I'm not seeing that anywhere else in statute. How did we get that language? And I'm just trying to understand why it's an either or.

BREWER: OK. Actually, that was scratched. So in the amendment, AM-- always the first one, AM1757 that goes to age 21, period.

BLOOD: OK. AM1757. And then next year, you and I need to go into Chapter 14 and look at that language, they use words like common prostitutes, vagrants, and tramps. I don't know if you noted that.

BREWER: Actually, I didn't.

BLOOD: Not to take you off topic, but--

BREWER: OK.

BLOOD: --I think that's some pretty antiquated language. I have one more question for you.

BREWER: OK.

BLOOD: So do the amendments, and I know we have more than one amendment. I know this is going to be decreased revenues, and they weren't sure if they're going to exceed the decreased reductions. Can you kind of walk me through any potential shortfall and how it might offset their budget? Because I did note in the fiscal note said that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

they may need to come forward and ask for more money in the future. Do you think that that's true or do you think that they're overcompensating?

BREWER: OK, when you say that, is that for the State Patrol for the reduction in the number of permits that they would--

BLOOD: It is. I'm sorry. It is. I should have been clearer.

BREWER: OK. No, we're good. We're on the same sheet here. It is unknown what we found from researching with Wyoming. The year after they went to constitutional carry. The number of their concealed carry permits increased dramatically, almost doubled. That's not true in every state. There's usually a dip the first year and then they come back up and are usually higher than they were before. So I think that's kind of an unknown exactly where that will go. I think it depends on the state.

BLOOD: I, I did note Kansas was one of the ones that was used and I thought they said, like, 30 percent. Does that sound right? Did I read that?

BREWER: I think that's ballpark. Yes, 27.

BLOOD: OK. So why did it go up in that second year?

BREWER: Well, I, I think what happens is there's folks that have not entertained the idea of being armed, and then they realize that this is possible through this legislation. And so they decide that they need to get training. And that's a quick, direct preset training that they can go and get. And, and that's, that's why they, they go to get it. Training becomes more valuable because you realize the impact of the actions that you may have to take with a gun.

BLOOD: And it's better to know what the heck you're doing when you have a gun in your hand.

BREWER: Well, yes.

BLOOD: And it's a lot more fun, too.

BREWER: Yeah, well--

BLOOD: All right. Thank you, Senator Brewer.

BREWER: You bet.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

BLOOD: So again, I'm still listening to debate, still going through the many amendments going back and forth. I actually support Senator Cavanaugh's amendment. I don't think we need more people in prison, and I'm not sure why we would have an amendment that would make the rules harsher. I'm a little concerned about the patchwork part of it, so I'm still listening. I'm still deciding. But I do really appreciate Senator Brewer walking me through some of my questions, and I know I kind of get into the weeds and really fine tune sentences, but when it's something so serious--

WILLIAMS: One minute.

BLOOD: --so serious to people, I want to make sure that we do it and we do it correctly. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Blood and Senator Brewer. Senator Walz, you're recognized.

WALZ: Thank you, Mr. President. I don't stand up and talk very often, I haven't much this year, but out of respect for Senator Brewer, I wanted to stand up and just kind of ask a few questions and, and tell a story. I do stand in opposition to LB773. And Senator Pansing Brooks, you will have to beat me to Senator Brewer's office if something happens because I will be running way faster than you. And I, I do that-- I would do that because I trust Senator Brewer. I trust him because I know that he has had extensive training. I've never been in the service and I can't even pretend to understand what it's like. I can take the experiences that I've heard from people who have served our country or who have spent time on base, even spending time on base where people have been deployed. What I do know is that there is an unbelievable amount of stress. There's emotional and physical stress, there's mental stress, there's marital stress, there's fighting, there's bullying, there's abuse, there's deployment, there's post-traumatic stress. You are up against a very, very high level of stress in an atmosphere where hundreds, hundreds of people could easily lose control in so many situations. And honestly, when I think about that, I think it's amazing that there really is so much self-control in a place where there is such a high level of stress. Senator Brewer, would you yield to a question?

WILLIAMS: Senator Brewer, would you yield?

BREWER: Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

WALZ: How does that happen? How does it happen that there's not more bloodshed just on, on a base, given there's so much stress?

BREWER: Well, unfortunately, when incidents happen, it's normally suicide. And, you know, the suicide is something we haven't been able to overcome. It is a reality of enough of a, I guess, environment of stress and death and the issues that sometimes come with wearing the uniform. And some folks just cannot deal with it. And that, unfortunately, is something that we just not have had the ability to overcome. And you know, I, I don't talk much about it. I don't know that there is really anybody on the floor that I've spent time talking about it because it's just not something you really want to talk about. You know, the experience of being shot is something that haunts you. So understand, I don't take any of this lightly, the idea of ever being in a position to have to shoot someone or the fact that being shot and understanding what it's like to be on the other side. And you know, that, that is part of the ghost I mentioned earlier that, that stays with you for life.

WALZ: Thank you, Senator Brewer. I don't think that owning a gun is a problem, honestly. For me, it's understanding the responsibility and the self-control and the training that's an issue. I think so much about that large amount of stress our military men and women are under and the control they have over how they use their weapon.

WILLIAMS: One minute.

WALZ: And I compare all those people to people who just decide that someone's driving too slow or they've been cut off on the road and they decide that that's the time to use our gun. Because someone has an argument with another person, that's the time to use our gun. It's also a little personal and I don't know if I have enough time, but I do have someone who's very, very close to my heart who served in the army and was deployed. And this is a person I love very, very much who went through some pretty traumatic times, a lot of personal trauma, a lot of mental health issues spiraling out of control pretty quickly. And there were many, many times he could have decided today, today is the day I use my gun. But he didn't, and I believe he didn't--

WILLIAMS: Time, Senator.

WALZ: Thank you.

WILLIAMS: Thank you, Senator Walz and Senator Brewer. Senator Pansing Brooks, you're recognized.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

PANSING BROOKS: Thank you, Mr. Speaker. I, I thought-- if, if Senator Walz wants to finish what she was saying, I'll yield. Let's see, I would like-- I'll ask Senator Walz a question so I can finish. Senator Walz,--

WILLIAMS: Senator Walz, would you yield?

WALZ: Yes.

PANSING BROOKS: --would you please finish what you were saying and then I'll make my comments.

WALZ: Yeah. So there were many times that this person was spiraling out of control because of the traumatic things that were happening in his life. And we were really afraid that that was the day he was going to say, today, I use my gun. And I don't think he did, I don't think he did only because of the training that he received and the knowledge of how to use a gun and the self-control that he learned while he was in the Army. So as his mother, I'm thankful for the fact that he had the opportunity through his service in the Army to be trained and to use self-control. Because without it, I don't think his circumstances would be the same that they are today. Thank you, Mr. President.

PANSING BROOKS: Thank, thank you. Thank you for doing that, Lynne, and for your brave story. I appreciate that and we send you all of our love. So as we know, this is, this is difficult for everybody and many instances for all of us. I appreciate Senator Walz's willingness to come forward and tell stories that are, are so difficult and heartrending. We appreciate Senator Brewer, who is a true hero amongst us. I, I don't think there's probably anybody in this Legislature that we admire more or think has more sense on so many things. And he's-- he really has been a joy and an honor to work with in my opinion. I'm getting sentimental about things as I'm nearing the end of, of my eight years here. But I, I do want to just point out that there is a case right now pending in front of the Supreme Court, and that case is New York State Rifle & Pistol Association, Inc. v. Bruen. The Supreme Court is going to be ruling soon on concealed carry. Anybody remember back when Senator Morfeld and I had been bringing the workforce equity bill and everybody said, oh, just wait, the Supreme Court's going to rule on LGBTQ+ in the workforce. That was the Obergefell case. They were going to rule on marriage, and they ruled. Everybody had said, oh, just wait, wait for that time, because that's when the Supreme Court's going to make a decision, which they have done that marriage now is legal between two people of the same sex, and we have the same instance here. But I don't hear those same people saying to us or to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

Senator Brewer, just wait, just wait, the, the Supreme Court is going to rule on this soon. It's all about concealed carry, and we should wait. But nope, we have to move forward on this. I, I would also like to say that I, I agree with what I've been hearing. Let's just pay. This is a first-- this is a Second Amendment right to our constitution. Let's pay for the classes. I don't want people wandering around without classes and without training.

WILLIAMS: One minute.

PANSING BROOKS: That office of Senator Brewer's has some of the most capable and, and knowledgeable people in this area that I know. I admire them. I don't totally agree with them, but I admire each of them. And I have a lot of fun with them. But I bet we would all agree on the fact that we need training for people. Why, why doesn't the state pay for that? It's a constitutional right. Let's pay for the training. If the training is the issue, then let's, by gosh, get people the training they need. I, I think that's the way to solve this. I'll support this if we get training and if we get people able to get the work that they need and the training and, you know, we hear about Senator Brewer and the people that have been in the military, that's all training. That is all training. That's my sticking point. I'm-- I am supportive of the Second Amendment. I am not a gun owner,--

WILLIAMS: Time, Senator.

PANSING BROOKS: --but I believe in training.

WILLIAMS: Thank you, Senator Pansing Brooks and Senator Walz. Senator John Cavanaugh, you're recognized and this is your third opportunity.

J. CAVANAUGH: Thank you, Mr. President. So just to remind everybody, we're still on my amendment. And although it's my last time to talk, I just wanted to make sure that I got to discuss all things because I've talked to quite a few people off the floor and people don't, I guess, quite understand what the intent of my amendment is. And, and so I've gone through kind of the mechanism before. If you have any questions, be happy to answer those. But basically somebody-- if, if the conduct, if we change conduct, previous convicted conduct was-- is found to not be unlawful any longer, that that would add that as an element someone could seek an expungement. Expungement and set aside is already in the statute for offenses like this. This just adds an extra level to that to make sure that somebody-- we're, we're basically stating a principle that says once we've decided this is no longer unlawful, that that gives more weight to someone's request for that expungement

and set aside. And again, this expungement and set aside does not make that prior conviction available for subsequent enhancement on any-- if any subsequent criminal offense were to arise out of later conduct. So it is still available for prosecutors and law enforcement. It would still be available for police to look at somebody's record. And I point that out again because I would point out that law enforcement came and testified against this amendment or, well, I guess, they sent a letter in opposition to it. And I, and I, I didn't really-- I don't understand their opposition, and I just thought that was interesting to note in light of Senator Brewer's comments about certain law enforcement being opposed to the underlying bill here and suggested amendments that we're considering. I obviously have a-- respect our, our state's law enforcement. I respect their opinion as it pertains to their professional industry. And, you know, I think a lot of people are talking about their concerns, rightly, as it pertains to making these sorts of changes to the concealed carry statute the state-- in the state. And Senator Pansing Brooks, I think just pointed out a important point about the distinction between safety with training and no training and education and the valid concerns, complaints, criticisms. I think I agree. My point is in this amendment, and since I guess it's my last time to talk before closing and, and getting a vote on it, but that when we make a policy decision, whatever nature it takes and whatever your position about the policy decision is, whichever side you're on on this issue and any other issue that policy decision requires us to also consider all of the things that go along with that. And so in the criminal justice system, we make a lot of decisions about penalties and lengths of incarceration, what, what the civil penalties afterwards, whether people can get SNAP benefits after they have served their sentence and been convicted, whether people get the right to vote restored, whether or not people can own or possess a firearm. All of those things are policy decisions that we have made. And sometimes when you make a change in a policy decision that you need to make sure that you are addressing all of those other sort of dominoes that we have put in place as a result of criminalizing conduct, incarcerating people, punishing people, and whether or not people should-- whether it's a good policy choice to make people carry the stigma of a criminal conviction with them for the rest of their life.

WILLIAMS: One minute.

J. CAVANAUGH: Thank you, Mr. President. Once we have made a decision to roll back a previous policy decision, once we've changed our mind about whether or not something is unlawful conduct, whether or not we should-- that when we make those changes, we should consider-- it

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

should be part of that conversation, whether or not we continue to treat people, penalize people to, to have them have that stigma with them for the rest of their life for that conduct. And so that is a consideration. That's why I think it's an important part of this conversation overall, and I think it's an important part of any conversation we have is not just what is the letter of the law change we're making, but all of the other things that go along with that. And that's why I brought this amendment, and that's why I think it, it should be part of the conversation going forward and why it should be adopted as part of this bill if this bill does-- were to advance. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Cavanaugh. Senator Day, you're recognized.

DAY: Thank you, Mr. President and good morning, colleagues. So for me, there's a couple of sticking points on, on this issue. The first one being the pull motion. I was just outside the Chamber talking to a young man named Jason, who took the day off today to come and advocate for this bill. And we got to have a conversation about how important the process is for each one of these bills when we circumvent the committee process by utilizing a pull motion. From my perspective, it eliminates a really important part of the process for those of us who don't sit on the committee, particularly, we don't have a committee statement. We don't know how many people came in support or opposed, and we don't know what, what we call the second house said, which is the general public. That's one of the problems that I have. The second issue is AM1757, which I really, really don't like for a couple of reasons. The first thing is, you know, if we want to pass a bill based on the premise that the right to keep and bear arms is a constitutional right, that should apply to every single Nebraskan in the state. We can't say this shall not be infringed unless you live in Omaha, then it's OK for us to create a carve out for the city. I appreciate Senator Brewer working with law enforcement on finding a compromise for this. And I do think that that's very important and I don't fault him for that. But I don't-- I personally don't like the compromise that it has come to in terms of carving out Omaha, which personally, I don't think it's surprising to understand that the city of Omaha is the city in the state with the highest population of black Nebraskans. I don't think it's a coincidence that we're carving them out. And I would echo some of Senator McKinney's sentiments on that issue. I was doing a little bit of research on this, and I found a really great article in the Chicago Sun-Times written in January 26 of 2021, titled "How Second Amendment gun rights fall short for African Americans," and I'm going to read it here into the record: It was

described as a standoff. Congressman Lauren Boebert recently refused to permit Capitol Police to search her purse after she set off a metal detector. She now avoids the Capitol metal detectors entirely so far without consequence. The Second Amendment is allowing her to get away with a lot. Boebert's not alone in carrying a gun. According to data gathered from the FBI, 15 million guns were purchased between January and July 2020, marking a 91 percent increase from the same period in 2019. More than 30 percent of American adults claim to own a firearm. What is different now is that the largest rise in gun sales in 2020, nearly 60 percent, has been among African Americans, who increasingly fear that they can't rely on law enforcement for safety. Gun ownership comes with many risks, but these new gun owners should be given an additional warning. In practice, the Second Amendment right of African Americans is limited. Nothing in the constitution restricts gun ownership by ethnicity, of course. But in reality, the Second Amendment doesn't apply equally to people of color who are often killed while trying to fully exercise their right to keep and bear arms to defend themselves or protect others. Take the story of Breonna Taylor and her boyfriend Kenneth Walker, neither of whom had criminal records. When three men in street clothes attempted to break through their door at 1:00 in the morning, Walker grabbed his registered firearm. When the men broke down the door, he fired a single shot in self-defense. The men, whom he later learned were police, fired back several rounds. They shot Walker, arrested him for attempted murder and killed Breonna. There are other cases that illustrate the same point. Take Philando Castile--

WILLIAMS: One minute.

DAY: --who, during a traffic stop, alerted the officer that he carried a registered gun in a vehicle but was shot and killed by police before he could explain. Then there's the 26-year-old security guard from Illinois, Jemel Roberson, who apprehended a dangerous armed man at gunpoint but he was shot immediately by police when they arrived on the scene. Similarly, a heroic Emantic Bradford helped to protect the crowd from a lone gunman in an Alabama shopping mall, yet the 21-year-old, who was lawfully carrying a firearm, was shot and killed by police. I'll finish my article later. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Day. Senator Geist, you're recognized.

GEIST: Thank you, Mr. President. And I did have a question for Senator Brewer if he would yield for a question, please.

WILLIAMS: Senator Brewer, would you yield?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

BREWER: Yes.

GEIST: I had a constituent contact me and I know we talked about this off-line, but I wanted to have this question answered for the record, record. I had a constituent contact me about reciprocity and how this would look when you take a gun to other states. If they would recognize if we have a "permitless" concealed carry, if-- how that would look if you take a gun to other states?

BREWER: Well, if you left Nebraska under just constitutional carry, that's where it would end is when you got to the border. If you have a permitted concealed carry, then it would be recognized in any of the other states that we have an agreement with. So in order to travel across state lines, you would have to have the full permitted concealed carry.

GEIST: OK, thank you. And I think that's important for us to know that it, it, it-- that this concealed carry only is in effect in the state of Nebraska and not in other states. Another thing that we've been talking about is training. I am engaging some other of my colleagues in talking about possibly having free online four-hour training, it could be online or in person because Senator Brewer says he has 20 instructors who are already willing to give that for free. And so it'd be free, it would be online or in person, and you could print out a certificate right there after you finish the course, carry it with you. And I just think that could be a good compromise for those of you that want training, something maybe we could talk about in-- I do have an amendment coming. If people are interested, we could do that. We could-- so it's four hours online or in person. It's free, you could print out your certificate right there or have it-- have that be provisional and you get a-- one from the state. I know that there is a lot of questions that need to be answered about that, but I think it's a good middle road and alternative for those who are having trouble getting on board because there's no training. So with that, I'm happy to engage my colleagues off the mike and discuss that further if you're interested. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Geist and Senator Brewer. Senator Lowe, you're recognized.

LOWE: Thank you, Mr. President. I stand here in support of LB773 and AM1757, and I am opposed or still listening, at least, to AM1794. Innocent until proven guilty. A senator said that, that we are innocent until proven guilty. As you carry your weapon, you are assumed you're guilty by a lot of the people here. We are talking

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

about good citizens legally carrying a firearm or a knife where it, it is concealed because we don't want to alarm anyone because, obviously, we are alarming people today by even speaking of this bill. We're talking about the good citizens of Nebraska doing this. We're not talking about those who would do harm to other citizens that are already carrying concealed weapons unlawfully. We want to talk about training. I hunted up until I was in college, and I enjoyed hunting and carrying a weapon with me most everywhere I went. Matter of fact, when I bought my first pistol, it took me an average of about five minutes to walk in the store, pick it up, and walk out. There was little regulation at that time, signed a few papers, got the numbers off the, off the pistol and I walked out and I was shooting later on that afternoon. But we're talking about training, and I have my concealed carry permit, not carrying today. I don't need to. We have redcoats here, we have law enforcement officers around. I am very safe inside this building. My wife was attacked two years ago, broad daylight at noon in the city of Lincoln. The fellow that did that is still out wandering around somewhere. The Lincoln Police Department was wonderful. They tried very hard for six months to find that man. Attacked at noon, broad daylight in downtown Lincoln. She laid unconscious on the concrete after the attack on the sidewalk. Why do we need concealed carry? There were six young men across the street that ran to her aid and then tried to chase that man down. They could not carry him-- catch him. Sobering fact that six young men could not catch this perpetrator. Now that man was not armed. The only thing he used was a building to hit my head-- wife's head to and then the concrete sidewalk when she hit the ground. She had a concealed carry permit. That wouldn't have helped, he hit her from behind. But if there might have been somebody walking along that street that saw this and, and held up that man for just an instant for these six young men to catch him, it would have made a world of difference to both me and my wife.

WILLIAMS: One minute.

LOWE: Thank you, Mr. President. In 2019, I proposed LB542, which would have been a tax credit for firearm training up to \$100. So your training, if you pay taxes, would be free up to \$100. It did not pass. So the option was there for training of people. Like I said, I hunted up until college, I dropped out, I didn't hunt until my children reached an age where I thought their friends would be hunting. And so it was my job then to teach my children, my three boys on how to handle a gun, a pistol, a rifle, and a shotgun responsibly so that nobody would ever get hurt.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

WILLIAMS: Time, Senator.

LOWE: Thank you.

WILLIAMS: Thank you, Senator Lowe. Senator Slama, you're recognized.

SLAMA: Thank you, Mr. President. Good morning again, colleagues. I rise still in support of LB773 and Senator Brewer's amendment, and I see debate today taking two turns. And I, I really do just want to touch on both of those sides of, of the tree of argument against this bill. One is the policy argument and the other is the emotional side. So policy wise, I think if you zoom out and you look at the facts of what this bill would do and the evidence behind other states have implemented constitutional carry, you will see very clearly that there has not been an increase in gun violence in those states that have implemented constitutional carry. The sky is not falling, in, in opposition to what some may be portraying to you. What this bill does is it simply adds another layer of protection to those who need it. Senator Geist raised an interesting concept about a potential compromise, but I am a bit concerned that those who are making policy arguments and just asking questions about technical things on the mike, that's a very common filibuster strategy. And it's a really good sign of someone if you're complaining about, well, the process or well, what, what does this word mean on page blank, line blank? That's a really good sign that you're not operating in good faith, you're not willing to negotiate, and you may end up just killing the bill just to spite it. So I, I am interested to see who on this floor is interested in negotiating in good faith. We've got about six hours if anyone is interested in a compromise. I know Senator Brewer is working and Senator Geist is. And on the policy side, I'm grateful Senator Brewer brought up what happened in the, in the hearing for LB773, particularly with the Chief of Police of Lincoln. And I would like to review that transcript because that does lead me into the emotional side of my argument. The Chief of Police of Lincoln referenced the need to call 911, which everybody on this floor recognizes when there's an emergency situation you call 911. Senator DeBoer asked her to clarify a statement she had made about people with guns choosing not to call 911. And her response was, yeah, I mean, look, I am a believer in the Second Amendment. Absolutely. I know some people might have feelings. I've been here for five months. I know, but I am from California. But you know, I do believe in the Second Amendment and calling 911 is absolutely something we need to do if you feel there is danger and if you need help. No, we've done a great job in Lincoln. The officers here are tremendous. But if we're not calling 911 to those officers to come out and do what everyone is describing as far

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

as taking action, that's, that's just not good policy to have. And that, that leads me into the emotional side of my argument, because everybody on this floor knows that there are situations that can happen where you are deciding between staying alive and picking up your cell phone and seeing if you can type out 911. And using force is something we are already allowed to do in the state of Nebraska. So to see those comments coming from the Chief of Police of the Lincoln Police Department to say that unless we're mandating somehow calling 911 before you fire in a life or death situation, that is scary to me because Senator Lowe's wife is one of my very good friends. And in 2019, when I took office, I decided I needed a concealed carry permit after I had been followed several times back to my car in downtown Lincoln. I've been through violent experiences before. I'm a very small person. I'm trained in self-defense. I can put up a really good fight. But at the end of the day, a grown man is going to kick my butt nine times out of ten. And I thank God that I have my concealed carry permit and I can concealed carry where it's legally allowed for me to do so. Because you never know when you're going to be walking in downtown Lincoln and get thrown into a brick wall.

WILLIAMS: One minute.

SLAMA: Thank you, Mr. President. And that's something I have to live with. Every single woman, every single person has to live with, and we have a constitutionally protected right to defend ourselves with force as necessary with guns. And I think LB773 is a wonderful bill. Senator Brewer has worked with police departments across the state to bring this bill, and I am wholeheartedly on board. Again, if you're interested in compromising, please come to the table because what I'm seeing right now is a lot of people not in good faith getting on the mike and filibustering a bill. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Slama. Senator Wayne, you're recognized.

WAYNE: Thank you, Mr. President. It seems like Groundhog Day again. I recall a similar bill, my first year, LB68, that I got a lot of flak for because I voted to support it on cloture. I don't-- I like the underlying bill. I do not like the amendment at all. I have-- I'm in a unique spot where half of my district is outside of the city limits of Omaha. So every time people who are north of the city limits driving to the airport, they're actually violating the law when they have their handgun because they haven't registered with the city of Omaha. So it puts me in a weird position when you have areas outside of the city of Omaha in a district, but they often travel to the city of Omaha. So it's always been weird in that situation. I am a avid gun

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

owner. I, I carry every day, sometimes three times a day. I just believe in it. And after I represented the Scurlock family, many of you know that I received a lot of threats and my house became a mini bunker with lots of fun toys in my house as far as guns. So the point of it is, is I like the underlying bill. I do not like the amendment at all. I do like Senator Cavanaugh's amendment. If you're going to say this is a fundamental right for all, then you need to remove convictions for those who've been convicted previously. I just don't like the, the amendment that was offered by the OPD. I watched the testimony and it really came down to they wanted to bump, what we call bump up, people in north Omaha and south Omaha. And I, I don't appreciate that at all. So with that, I'll yield the rest of my time to Senator Cavanaugh, John Cavanaugh.

WILLIAMS: Senator John Cavanaugh, your yielded 3:10.

J. CAVANAUGH: Thank you, Senator Wayne, and just reminded me when you were talking, Senator Wayne and I, when I was a new lawyer starting out, my very first motion to suppress was a concealed carry case with Senator Wayne was cocounsel. We had codefendants in that case and it was about a gun that was found in a car that was under the seat. And so we had a motion to suppress about a number of issues on that case. And ultimately, only one of the individuals in that vehicle was convicted of that gun. But that's-- I digress, but it just reminded me of Senator Wayne and I of having deja vu, speaking of deja vu. So I appreciate Senator Wayne's comments. And there was-- and again, I have a similar, I guess, position to Senator Wayne. I was-- I-- I'm generally, I think, not a person who is going to be in favor of relaxing gun laws and for a number of reasons. And like I said, I will talk about those after my amendment. But the reason-- I saw Senator Brewer brought LB773 and I saw the bill and I was, I will say, lukewarm about it. I wasn't-- I hadn't made up my mind about where I was going to be. But I thought my immediate reaction was, oh, well, this is a, a, a good opportunity to have this conversation and to make sure if we do go forward, go down this path, that it includes this sort of corrective action. And so that's why I brought my, my bill and, and now this amendment. And so-- and I say this and a lot of-- I know a lot of people don't believe when we're having these long conversations and why I, I keep talking about this and we're still on it. This is a sincere conversation about what we should be-- one of the things, I know we have a lot of things we need to talk about on this issue, and I appreciate everybody having the, the different perspectives people bring to this conversation and what it is are important about this issue to people, but to me--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

WILLIAMS: One minute.

J. CAVANAUGH: --thank you, Mr. President-- one of the most important things we talk about is what effect our laws have on the individuals they seek to regulate, the conduct they seek to regulate and what happens when we make changes to those laws and whether, whether we increase the penalties, which some people suggest on sometimes and we have, if you read the Omaha World-Herald and I, I can pull up the article later that they had a great series about previous actions of this Legislature, of this body, changing gun laws that disproportionately affected certain people in our state and is one of the reasons leading to our, our prison crowding crisis that we're facing right now. And so that needs to be part of every conversation we have about laws, about crimes, about punishment needs to be about what happens to the individuals whose conduct we have criminalized or we are decriminalizing or people who we have previously said criminalized their conduct.

WILLIAMS: Time, Senator.

J. CAVANAUGH: Thank you, Mr. President.

WILLIAMS: Thank you, Senator Cavanaugh and Senator Wayne. Senator Morfeld, you're recognized.

MORFELD: Thank you, Mr. President and colleagues. A few things. One, in terms of compromise, I'm open to compromise. I've had one person come up to me and, and talk to me about potential compromise, and I outlined where I would be personally, I would have to talk to other colleagues, but where I would be personally on some of the proposals that that individual came to me with. So I'm open to compromise. And the person that came up to me, I told them I'm open to it and that here's where I would have to be to be able to get on board. We would still have to have some type of permitting process. There would still have to be a background check. There would have to be some kind of training. But I'm totally fine with getting rid of the permit fee and any training fee. I'm open to it being online. I know some of my colleagues are not open to it being online. They think it should be in person. But I remain committed to compromising. I mean, I've got a lot of other things, quite frankly, that I could be doing right now for my job, my full-time job. There's a lot of things I could be doing for my campaign right now, too, so I don't take a ton of pleasure in sitting here and debating this at length. But I will tell you that I do think based on what I'm hearing from not only our Lincoln Police Chief but also the frontline officers that represent our Police Union, what I'm

hearing from them is that this is a dangerous proposal. And what I heard from the Omaha Police Department when this was first introduced is that this is a dangerous proposal. And granted they're neutral now, but that's not in support. And so I am absolutely 100 percent open to compromise. And I've just outlined where we would need to get for me to be in support. Now that doesn't mean that all of my colleagues are in support that are also have concerns about this legislation. But listen, I don't like paying that permitting fee to exercise my right. I don't like having to pay for the training as well. I think the permit is important. I think the training is important. I'm open to making it more accessible and making it online, and I'm open to getting rid of all the fees associated with that. That's personally acceptable to me. And I think that that's, quite frankly, a good middle ground. Because a lot of the discussion that has been brought up, has been about barriers to a constitutional right, which this is, and access to it. And I'm OK making it more accessible, and I'm OK bringing down some of those barriers. But what I'm not OK with is getting rid of a permitting requirement and a background check requirement that my Lincoln police officers say is important to the public safety, number one, but to their safety as well. You know, I want to talk a little bit in-depth about, and I'll have to get back on the mike on this because I'm still reviewing the statute that Senator Flood brought up in terms of affirmative defense, but that's simply an affirmative defense, and we'll get into the language in a little bit and talk a little bit about that. But that's an affirmative defense in some situations, in some circumstances. So that doesn't mean that that's already the case, this is already law, we're just getting rid of an unnecessary requirement. It's simply an affirmative defense, much like what we've done with Good Samaritan laws and other things. And so that doesn't negate the need or the value of having this process. So, colleagues, we are debating this. I think we can bring up questions and ask about language in good faith. And I've been here the entire morning sitting at my desk thinking about what I'm going to say next, bringing up facts. I'll also bring up what happened in other states.

WILLIAMS: One minute.

MORFELD: There's actual studies of what happened in other states after passing what's known as constitutional carry. This is really just-- constitutional carry is kind of a-- just a catchy name for this. This is really just getting rid of the background check and permitting and training requirements for concealed carry. And so we'll get into some of the data in terms of what happened after other states passed this law because there is some emerging data around that. And gun crime has

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

gone up, officer-involved shootings have gone up in states where they've passed these laws. So these concerns from law enforcement are not unfounded. They're not just made up. They are concerns that are grounded in reality and fact. And I think we should respect that. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Morfeld. Senator Flood, you're recognized.

FLOOD: Thank you, Mr. President. As luck would have it, Senator Morfeld, I'm right after you. And so let's talk about Section 28-1202. Would Mr.-- would Senator Morfeld yield to a question?

WILLIAMS: Senator Morfeld, would you yield?

MORFELD: Yes.

FLOOD: So I think it's important to have a dialog about this. If, if you'll recall, earlier in my comments today, I, I referenced Section 28-1202, which essentially says: As except provided otherwise in this section, any person who carries a weapon or weapons concealed in or about his person, such as a handgun, a knife, brass knuckles or iron knuckles, or any other deadly weapon, commits the offense of carrying a concealed weapon. Section (b) says, "It is an affirmative defense that the defendant was engaged in any lawful business, calling, or employment at the time he or she was carrying." You can see what that is and, and, as you know, an affirmative defense which found, if credible, negates the criminal liability that was outlined in the first section. How do you read that differently than me?

MORFELD: Well, the way that I read that is, is that if you're in a circumstance, so say your home or something like that and you have a concealed firearm and you're lawfully carrying out whatever duties or things like that, you have an affirmative defense before the court if, likely, deadly force is brought against you and you defend yourself.

FLOOD: But-- OK, so you don't, you don't disagree with me that it negates the criminal liability.

MORFELD: Only if the affirmative defense is found to be reasonable.

FLOOD: Which is fairly broad in Section 28-1202. So essentially, what we're saying with the way the law is right now is that if a court agrees with you, the county attorney can still prosecute you. They can still arrest you. They can still jail you. But if the court finds that you had an affirmative defense then it negates the criminal liability.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

My position is you can already carry concealed under that subsection. Why put the citizen, the law-abiding citizen through that?

MORFELD: Well, the reason why is outlined in the opposition by many of the police officers. They find that having a concealed carry license and having the training not only protects the public safety, but also their safety. And I would say, and what I need to do with this is I need to read some of the case law surrounding this because I think it was enacted originally in 1977, because the court may have held very narrowly the circumstances in which this affirmative defense would be available.

FLOOD: Well, I appreciate what Senator Morfeld is saying, and I also appreciate that we're having a debate about what the statutory language says and what the law already is. Thank you, Senator Morfeld. When I was here back in 2006, I'm going to read the words spoken by a state senator. Quote, Concealed weapons are just that, hard to conceal. They are uncomfortable and won't be allowed in many places. A vast majority of these weapons will end up in vehicles once the novelty of carrying them has worn off. This leads me to my point. The most common crimes in Lincoln, or the most common crime in Lincoln, is larceny, auto larceny. What will happen to these handguns once they are carelessly left in vehicles where every rock chucking, screwdriver prying thief has access to them? This is the kind of record that was made in 2006, and I don't want to depreciate the concerns of a senator then or a senator today. But this is Groundhog Day to an extent, and I am very comfortable with the way it's unfolded. If Senator Morfeld is correct, in 1977, Section 28-1202 provides this affirmative defense. 2006, we allow for the permitting of concealed carries-- concealed carry, and we change 28-1202 to say it shall be an affirmative defense to it is a affirmative defense.

WILLIAMS: One minute.

FLOOD: And then here we are 16 years later after our pilot program started in 2006, and we are asking that we make it simple for the citizen, the lawful law-abiding citizen, the person who wants to carry concealed that wants to exercise their Second Amendment right where we are simply recognizing what the law has been. We are codifying that you don't need the permit and we are talking about people that lawfully carry them. I do not think we're taking a big step here. I do not think this is going to incite violence. I think that we are allowing people to exercise their Second Amendment right and I am going to vote for LB773, AM1757. I do not support AM1794. Thank you, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

WILLIAMS: Thank you, Senator Flood and Senator Morfeld. Senator Matt Hansen, you're recognized.

M. HANSEN: Thank you, Mr. President. And good morning again, colleagues. Addressing a couple things. One is, I do agree with just what Senator Flood had just kind of said in the sense that I do think we're having a pretty substantive on-topic debate about the bounds of the bill, the bounds of current law, and where we're going. And I wouldn't want to necessarily-- there's been some questions about some sincerity or some other things so far. And I want to point out from my perspective that, you know, in terms of sincerity to negotiate, you know, I have some things around the edges that I'm willing to do, much like Senator Morfeld. But a straight out complete repeal, it's hard for me to negotiate if that's the starting line because that's so far from where I view we are now. Training cost, fees, exceptions, things like that. Sure. But if the, if the notion is just a straight kind of repeal of the entire concealed carry permit, background check, licensing, all of those things, that's a tough spot to negotiate from because that's, you know, a, a, a big step. And if that's a nonnegotiable line, which I think it is, I don't really know where the room to negotiate is unless people are willing to keep the permit there and work on training and work on fees and work on other barriers or burdens. I'd also like to point out, you know, our-- the Lincoln Police Department has been brought up a couple of times, including our Police Chief's testimony in the committee. And I'm kind of not 100 percent sure what the goal is always in reading that testimony other than to build the record, because it seems to me that there's been some indications that our Police Chief's position at the hearing made the Police Department in Lincoln not worth negotiating with and not worth even talking to. And for me, that does kind of bring up a concern. Well, well, if my city isn't even having a space at the negotiating table as a Lincoln senator, what room do I have at the negotiating table? And that's something I'm going to be monitoring and moving forward going into debate. Just because it's the most recent thing on my mind, I will say I do think this affirmative defense distinction that Senator Flood has brought up is interesting and worth looking at. I'll note the difference between something being legal and something being allowed. An affirmative defense is an affirmative defense is something raised at trial. So still an arrestable offense because the police don't have to believe your affirmative defense as opposed to if something was just flat out legal, they wouldn't have grounds to arrest you. And that is a difference of what stage of the process it gets invoked. And so this is being raised from something that occasionally in a dire circumstance, a person can raise a defense

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

to avoid criminal liability as opposed to being legal all of the time at day one. And I think that's a distinction worth making. We can decide where that we want that line to fall or I'd be interested to hear more about the legislative history of how we put it in. Senator Morfeld has referenced. I'd be interested to hear some of the Supreme Court case law, if any, on how broadly or narrowly this term is defined. Because same, really kind of diving into it for the first time this morning. These are all the pieces that we are kind of wading through and stacking together on a bill like this. And so that's, that's where I'm coming from. Oh man, I had another point that I, I waited a whole hour, and I can't think of my third point. With that, Senator John Cavanaugh, would you like any time? He shrugs. I'll yield the balance of my time to Senator John Cavanaugh.

WILLIAMS: Senator John Cavanaugh, yielded 1:20.

J. CAVANAUGH: 1:20. Thank you, Mr. President. Thank you, Senator Hansen. I, I actually have been sitting over here trying to read some of the history about the affirmative defense, too, as though, though I've been committing myself to continuing to talk about my amendment. And I was also before Senator Flood and Senator Morfeld's good conversation got distracted from reading about the Parole and Pardons Board in our state constitution.

WILLIAMS: One minute.

J. CAVANAUGH: Thank you, Mr. President. And so as to my amendment, I've had a few questions and people, again, my amendment I'm serious about and I think that it would-- it is a good amendment and makes the bill better. But some people have asked me, actually, why do I not go further in this amendment? And I was-- I will talk about it again later. But this is as far as the Legislature is empowered to go. To grant further relief to anyone who has previously been convicted of a crime, we would need to amend the constitution to give the Legislature more power. The Pardons Board is the only one that has that authority. That is in the Constitution of the state of Nebraska and that the Pardons Board, if I recall, includes the Governor and I think the Attorney General. And so we don't have the authority to go back and, and completely clear someone's record. But we have the authority to create this sort of civil remedy under the set aside statutes. And so that's why my amendment, my original bill doesn't go farther to completely clear people's records, it goes--

WILLIAMS: Time, Senator.

J. CAVANAUGH: Thank you, Mr. President.

WILLIAMS: Thank you, Senator Cavanaugh and Senator Matt Hansen. Senator Machaela Cavanaugh, you're recognized.

M. CAVANAUGH: Thank you, Mr. President. Did, did Senator John Cavanaugh need to finish his thought? He's good. OK. So I, I previously said that I will vote for Senator John Cavanaugh's amendment. But if it was a stand-alone bill, I wouldn't be voting for his bill. But I, I do think if, if AM1757 is going to pass, then we should be lifting those penalties. I did want to comment on something that Senator Cavanaugh said when he called me the other Senator Cavanaugh, when he called me the other Senator Cavanaugh, I just wanted to correct for the record that I am the first Senator Cavanaugh. Not the other. Thank you very much. So back to the bill. I, I understand comments about that people wanting to work on this or not work on this or filibuster. So I just want to be clear, I oppose LB773. I don't want to work on it. I think that our gun laws right now are satisfactory. I don't-- this seeks to solve a problem that I don't believe exists. And so I am filibustering it, and I'm not trying to be sneaky about that at all. I can talk about the merits of the bill itself, or I can just read the language or I can share with you my musings about which Cavanaugh came first. But I am filibustering this bill. I don't agree with this bill, and I just didn't want people to be confused as though I were trying to hide what I was doing. I oppose LB773. And when people contact my office, my office lets them know that I oppose LB773. I think that our current gun laws are sufficient and are doing a good job. I also think that it is important to take into consideration when law enforcement comes and testifies about their personal safety on the job. I think it is really, really important to listen to them and make sure that they are heard. Law enforcement and I are not always on the same side of things, but I very, very much appreciate their work, their commitment, their families' commitment. And if there is something that I can do to keep them safer in their jobs, then I'm going to do that. And if there's something that I might do, that will make them less safe, and they have told me very strongly that it will make them less safe, then I'm not going to do that. And they don't think that LB773 is a good public safety bill, and neither do I. I don't think that the carve outs for Omaha are good public policy because they basically do more to institutionalize systemic racism. The only reason I like AM1794 is because if we're going to do this, then we should stop penalizing black people. But this is definitely a filibuster, I think we're about to break for lunch, so I probably don't need to take us right up to the minute. So, Mr. President, how much time do I have left?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

WILLIAMS: 1:20.

M. CAVANAUGH: OK, I will yield it back to you. Thank you.

WILLIAMS: Thank you, Senator Cavanaugh. Mr. Clerk, for items.

ASSISTANT CLERK: Thank you, Mr. President. New resolutions. LR328 by Senator Aguilar is a proposed interim study. It will be referred to the Executive Board. LR329 by Senator Kolterman congratulates Concordia University men's basketball team. That will be laid over. Amendments to be printed: LB933 by Senator Albrecht; LB852, Senator Morfeld; LB888 by Senator Bostelman; Senator Machaela Cavanaugh to LB59, LB75, LB705, LB1148, LB971, LB691, and LB1178; Senator Williams to LB1069; Senator Machaela Cavanaugh to LB795, LB1147, LB697, and LB824, as well as LB807, LB779, LB808, LB1092, LB1204, LB1184, LB1165. Name adds: Senator Wayne to LB704, LB705, LB1037. And finally, priority motion. Senator Clements would move to recess until 1:30 p.m.

WILLIAMS: Members, we will be holding the queue and begin debate again this afternoon at 1:30 on LB775 [SIC--LB773]. You've heard the motion to recess. All those in favor say aye. Opposed say nay. We are in recess.

[RECESS]

ARCH: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Roll call. Mr. Clerk, please record.

ASSISTANT CLERK: There is a quorum present, Mr. President.

ARCH: Thank you, Mr. Clerk. Do you have any items for the record?

ASSISTANT CLERK: Not at this time.

ARCH: Thank you, Mr. Clerk. We will proceed to the first item on this afternoon's agenda. Mr. Clerk.

ASSISTANT CLERK: Mr. President, continuing this afternoon's agenda, LB773 was discussed this morning. At that time, Senator Brewer offered AM1757. Senator John Cavanaugh offered an amendment to the amendment. That was AM1794.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

ARCH: Thank you, Mr. Clerk. We have preserved the queue from this morning. Senator Hunt, you're recognized to speak and this is your third opportunity.

HUNT: Thank you, Mr. President. Senator Morfeld asked me for my time to respond to some other things that were said, so I'll yield it to him. Thank you.

ARCH: Senator Morfeld, your yield time: 4:49.

MORFELD: Thank you, Mr. President. Thank you, Senator Hunt, for the time. I appreciate it. I wanted to continue the discussion that I was having with Senator Flood here. Looking at 28-1202, I've been able to review the statute over the lunch hour a little bit more and-- and come a little bit better prepared to discuss that. So when we're talking about this, so going back to the language, and-- and Senator Flood spelled it out pretty well, Section 1(a) says, except as otherwise provided in this section, any person who carries a weapon or weapons concealed on or about his or her person, such as a handgun, a knife-- knife, brass knuckle-- brass or iron knuckles, or any other deadly weapon commits the offense of carrying a concealed weapon. Then you go down to sub (b). Sub (b) says it is an affirmative defense that the defendant was engaged in any lawful business calling or employment at the time that he or she was carrying a weapon or weapons in the circumstances in which such a person was placed at the time were-- justify a prudent person carrying a weapon or weapons for the defense of her person, property, or family. So this is, in terms of scope, somewhat of a narrow defense, and it's also defined by certain types of activities, engaged in certain types of activities. So I don't think it's right necessarily to say-- and I'm not quoting Senator Flood's words specifically. This is just kind of how I heard it, so I don't want to pretend that I am. But this is a defense. It's still a crime. The only time that you assert a defense is when you've been charged with a crime. And so it's still a crime to carry a firearm. But there is a def-- a concealed firearm, I should say. But there is a defense, and the defense right here is both narrow in scope and duration. It is an affirmative defense that the defendant was engaged in any lawful business calling or employment at the time, so it's a fairly narrow defense, as far as I can tell. This is still a crime, and I think it's important to point that out. Now-- and I was going to yield Senator Flood some time to-- to respond to that, but I can't yield Senator Hunt's time, but-- so that-- that plan is gone, but maybe I'll ask him, ask him a question in a second. I also want to note something before Senator Flood and I have a discussion about this, is the Police Chiefs Association of Nebraska is still opposed. I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

wanted to make sure that I confirm that over the lunch hour. Police Chiefs Association of Nebraska is still opposed to this legislation, and so is the League of Municipalities as well. So this isn't just the Lincoln Police Department, the Lincoln Police Union, and I suppose OPOA and OPD are now neutral, but there is broader groups throughout the state of Nebraska that are still opposed to this legislation. I think it's important to note that for the record, that it's not just the Lincoln Police Department. And with that, I don't know if-- if Senator Flood would like to yield to a question or-- or have more discussion on this. I know I can't yield him, so happy to provide an opportunity.

ARCH: Senator Flood, will you yield?

FLOOD: Certainly.

MORFELD: Senator Flood, do you have anything to-- to respond with in-- in my analysis of the statute or-- or the current crime?

FLOOD: No, I think you-- you accurately portrayed it. And the part of the affirmative defense that you called the attention to was that it is still a crime to carry a concealed weapon in the state, I think, is what you want to emphasize. The affirmative defense obviously invalidates or renders the criminal liability, negates the criminal liability. And my point is, why go through the legal gymnastics of that? If you already have an affirmative defense, why don't we just simply, you know,--

ARCH: One minute.

FLOOD: --call it, a spade a spade? I mean, you can do this already in the state if you've got a reason to do it, to protect your family, your business, your residence. So we disagree on this, but you're accurate when you talk about an affirmative defense.

MORFELD: Thank you, Senator Flood. I-- I just wanted to provide some opportunity for Senator Flood to be able to respond. And-- and again, I just want to note that you have to be doing this in-- in the scope and the course as narrowly defined in the statute. So this to me is not some kind of free-for-all and negates the need for the permitting process, negates the need for a permitting process that we are told by law enforcement that is necessary to provide more safe communities and also keep them safe as well. And I'm going next time to get-- when I get on the mike, I'm going to get the letter from the Lincoln Police Chief and read through that because I think that--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

ARCH: Time, Senator.

MORFELD: Thank you, Mr. President.

ARCH: Thank you, Senator Hunt, Senator Morfeld, Senator Flood. Senator Gragert, you're recognized.

GRAGERT: Thank you. Mr. President, members, I stand in-- in support of LB773, AM1757, and AM1794. I have served with Colonel Brewer in the military, and I know, as he has said him-- himself earlier, he does not take this lightly, this being the decision to bring this bill. That being said, Colonel Brewer's bill just protects Nebraskans' right to bear arms. He is not advocating that each and every individual go out and arm themselves. This decision must remain with the individual. They must have personal responsibility to know whether they are making Nebraska safer or are they more of a hazard by carrying that weapon. Colonel Brewer is a very reasonable individual and has shown he is willing to work with others to make the-- this bill the best bill possible. I will be voting green to move this bill forward and encourage all of you to do the same. And I yield the rest of my time to Senator Brewer if he so desires. Thank you.

ARCH: Thank you, Senator Gragert. Senator Brewer, your yield time: 3:45.

BREWER: Thank you, Mr. President. Thank you, Senator Gragert. All right, so we just heard from Senator Morfeld that the police chiefs are opposed. There's a little bit of information every should--everyone should understand is, if you go out and speak to the police chiefs outside of Lincoln, again, we came to an agreement with Omaha, and I'll gladly give you the name and phone number of all the police chiefs in my district. This is not how they see the world. I'd love to give you the phone numbers to all the sheriffs, to include my brother. Ask them how they feel. I think you'll find that there is a-- a different view of this bill outside of Lincoln. So we will see how we engage on this issue of law enforcement. But understand, I was a reserve police officer. I spent four years commanding the Counternarcotics Task Force with the Nebraska State Patrol, the National Guard; spent four years in Afghanistan doing counternarcotics work with the DEA. I was the DEA fellow to the Army War College, so I think I understand the needs of law enforcement better than most. So along with my comments about how I take this right as serious as we can take it, I also take protecting the police. That's why I'm a little bit confused why all of a sudden everybody seems so confused about this amendment and can't quite get their arms around it and how

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

it's racist. And we're going to have a conversation about that. We're going to call the people to the mike who made those comments. We're going to let them dig through the bill and show me in there where this is racist, and then you can enlighten us all. Thank you, Mr. President.

ARCH: Thank you, Senator. Senator Vargas, you're recognized.

VARGAS: Thank you very much. Colleagues, I just wanted to-- I haven't spoke on this, and I wasn't planning on doing too much in terms of speaking on it. I-- I wanted to make sure to listen and learn, but there were a couple of things I wanted to make sure to react to. The first is, look, our communities, and I'm speaking on behalf of my communities as well, and even in our state, we've experienced some more gun violence, and there are plenty of news stories and data to look at that, to prove that point. You know, we did hear from not all law enforcement, but many law enforcement across the state, including the Police Chiefs Association, that did come in opposed and they still have concerns. And, you know, this went through a different process. It got pulled out of committee. And so I'm out looking at the-- the testimony or exactly what is stated, but I hope we can have more information about how they were opposed. But they still have concerns, and I think that's the point. And it should be a flag if there are concerns from enough of an association of individuals that, look, this bill isn't meeting all their concerns yet, even many of whom have actually stood by law enforcement in the past. In the end, I don't want to pass laws that could make our communities or our kids less safe, and that is what I did see in some of the testimony. And I wanted to make sure that was clear because I think at the end of the day, at least what I'm still hearing is, the law-abiding gun owners aren't really affected by this. It's just changing the circumstances for them. I want us to all be interested in doing everything we possibly can to ensure the public safety and that any bad actors have a harder time to secure a kind of weapon. But there are still a lot more questions and answers, and I just wanted to make sure that was clear. I yield the rest of my time.

ARCH: Thank you, Senator. Senator Brewer, you're recognized.

BREWER: Thank you, Mr. President. All right, let's go ahead and jump into AM2106. This is the amendment that we worked on for 42 days with the Omaha Police Department. We met with a variety of folks to try and understand what their concerns are and how we could come to a place where we'd say we could agree. Now Omaha is unique. It's our biggest city, has the most challenges, especially when it comes to some of the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

issues that we had to deal with, with crime and having possession of a gun. So when we finished, these are the three that we agreed upon. It would authorize cities of the metropolitan class-- Omaha-- to continue to maintain a handgun registry. This registry does not and would not under LB773 apply to concealed handgun permit holders. The current Omaha ordinance forbids a city from registering handguns for people with certain misdemeanor offenses. This effectively bans them from having a handgun in Omaha. The amendment would stop Omaha from using registration as a shadow handgun ban. It would say that a person engaged in the commission of certain covered misdemeanor offenses could still be charged with carrying a concealed weapon. The covered offenses would have to be provided beyond a reasonable doubt in order to allow conviction for a related CCW offense. And the third item, it would make third-offense failure to inform a Class IV felony. The current Handgun Permit Act requires a permit holder who is a-- who officially contacts any emergency-- emergency responder-- that would include law enforcement-- while carrying concealed to immediately disclose its presence. Failure to inform is currently a Class III misdemeanor for the first offense, Class I misdemeanor for the second offense. Now there are those who got up on the mike and talked about local control. Well, I think 91 of 93 counties declaring themselves a Second Amendment sanctuary county is local control, giving the ability of the Omaha Police Department to make sure that the laws we pass here either are evenhanded and fair with them but don't-- but don't hinder them. And that's where we were. Now my challenge came in the fact that there were national gun rights organizations who came against this amendment. But here's the dilemma. Without the amendment, you don't have the bill. So we either understand that when the dust settles from this, everybody in Nebraska is better off because they now have constitutional carry and that Omaha is no worse off and we've actually changed some of the laws that help. That's where we are with this amendment, doesn't hurt us, helps everybody in the rest of Nebraska, and protects law enforcement in Omaha. Now I heard Senator McKinney. I got it. He hates the Omaha Police Department with a passion, maybe justifiably so. But to say that they designed this bill to be racist is not fair, not right.

ARCH: One minute.

BREWER: Everybody I heard discuss this did it in a-- in a way to explain what the challenges, what the issues, what their problems were and their ideas on how to fix it and how we put this into LB773 or the amendment to LB773. So please understand that there was a lot of work that went into this amendment. The idea is to help law enforcement, not to hurt anyone else. With that, thank you, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

ARCH: Thank you, Senator. Senator Lathrop, you're recognized.

LATHROP: Thank you, Mr. President and colleagues. Good afternoon. I would like to see if Senator Brewer will yield to a few questions.

ARCH: Senator Brewer, will you yield?

BREWER: Yes.

LATHROP: Senator Brewer, I'm-- I'm curious about this. We-- we want to establish constitutional carry, which would mean essentially you have a constitutional right to carry concealed. And as I read AM1757, I would have expected that we just got rid of the Concealed Carry Permit Act and we're not. We're amending that. So do we have two avenues? Going forward, if I don't have a permit, I just want to go to the gun store and buy a gun, can I just do that going forward if this bill were to pass with AM1757? And I guess the follow-up question is, why-- why are we keeping the Concealed Handgun Permit Act around at all?

BREWER: Actually, very good question. Thank you. All right, so the idea behind this is that you would have two options. So we keep the current concealed carry permitting program as is, no changes to that, then we add constitutional carry. Why do we do that? If-- if-- if Steve Lathrop wants to go down and buy a gun at Cabela's, if you have a concealed carry permit and you go in there and you provide them your driver's license and that permit, your ability to purchase a firearm is expedited because it's just a matter of paperwork and-- and it becomes yours. If you don't, you're going to have to go through a wait period to make sure that you're not a person who should not be able to purchase a gun. The other thing that becomes a factor is if you cross state lines and you leave the state of Nebraska and go somewhere else, you've got that concealed carry permit that you can show to law enforcement in surrounding states that lets them know that-- that you are a qualified, trained person with concealed carry, because the constitutional carry, you have no rights once you leave the state of Nebraska.

LATHROP: OK. Thank you for that explanation, and now it makes-- now I understand why it makes sense or why we're leaving it in there. So going forward, if AM1757 and LB773 pass, then what do I gotta do to get to be able to carry lawfully? Let's say that I-- I talk to Senator DeBoer. She's got a handgun. She's going to sell me that handgun, and now I want to carry it around. Who's going to screen whether or not I have a major mental illness, or any of the things that the permit process would require, and ensure that I'm not a person with a-- I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

don't want to say a disparaging term, but with a major mental illness or an otherwise prohibited person? I can just stick that thing in my pocket and as long as no one catches me, I'm OK. That's a question, yes.

ARCH: Senator Brewer, will you yield?

BREWER: I would. All right, again, another great question. All right, so first off, if-- if you were going to purchase a gun from Senator DeBoer, you should do a purchase agreement, a bill of sale, some type of a documentation to show that you're buying that from her. She would have the requirement to make sure that she's not selling that gun to someone who has issues. Now remember, if you've got that concealed carry permit and you go down to Cabela's and you've got your driver's license and that and the money--

ARCH: One minute.

BREWER: --they're going to give you-- they're going to give you that permit, and, again, you still may not be right in the head.

LATHROP: That's-- that-- that may be the point I'm getting to, because under the-- under the Concealed Carry Permit Act, they're going to make sure that I don't have a mental illness or somebody hasn't put me on a list as somebody with a mental illness or a felony conviction. And if I buy it from Senator DeBoer, I don't have to do a background check. I-- I'm simply able to-- it sounds like you're getting help with the answer to this one and--

BREWER: Well, I [INAUDIBLE]

LATHROP: --which is fine. I'd-- I'd-- I'd like to have a good answer than to have you speculate.

BREWER: Right. Well, you-- you're going to have two things to-- to purchase a gun. You're going to either have a purchase permit or you're going to have the concealed carry permit. But one of the-- one of those--

LATHROP: Even in a private sale? OK, different--

BREWER: Even a private sale, they shouldn't sell it unless they do. That responsibility goes to the individual selling the gun to make sure.

ARCH: Time, Senator.

LATHROP: OK.

ARCH: Thank you, Senator Lathrop, Senator Brewer. Senator Friesen, you're recognized.

FRIESEN: Thank you, Mr. President. So I will maybe clarify some-- some of the conversation that was going on. So if-- if me as a concealed carry permit holder want to come to Cabela's here to purchase a firearm, I can just walk in there, purchase a firearm, show them my card, walk out with a gun. If I don't have the concealed carry permit or a purchase permit from the sheriff's office, I have to wait seven days, I think it is, before I can pick up that gun. So that's the difference here in how you purchase a gun. Now, me, if I want to personally sell Senator Lathrop a gun, I feel, under today's laws and stuff-- and again, I don't know quite what the law requirement is, but I'm not going to sell a gun to someone I don't know because I have a responsibility also of, if I don't document the sale of that gun and who gets it, I could be held liable because that gun might be registered in my name somewhere. And so I don't want that gun just traveling around. I am going to make that documentation happen. But I'm not totally familiar if we have to-- to me, I've always asked for a permit so that I can see it so that the person-- person I would be selling a gun to has a permit. I don't have to do that. That's just something I do. I don't think I have to do that, but that's what I do. The thing that I'm listening to here, I-- I-- I just-- what I fail to see is how this handgun permit that we have to get, the concealed carry permit, how that makes us any safer. I-- criminals, someone that wants to do something bad, whether they're just angry and want vengeance or whatever other reason they have, don't care if they have a permit or not. If they have access to a firearm for some reason, whether they steal one or-- or take one from somebody, they're going to do bad things with it. But this permit doesn't stop anything. It doesn't prevent anything. It prevents law-abiding citizens from getting a gun when they want one. I don't feel that I don't see how it makes us any safer. As a-- you know, you-- you know, I'm not in law enforcement. And I-- I know Senator Brewer talked about that. But I would assume that today law enforcement officers, when they approach any vehicle, their assumption has to be that somebody could be sitting in that driver's seat or in the back seat with a gun, and they really don't care if it has permit or not. I would be worried about the gun. And so a permit doesn't change anything until you go up to the door and ask him to-- you know, do you have a gun in the car or do you-- do you have a permit? By then, it's too late. I'm failing to see where any of this stops anything bad from happening. I do like the part where when you go to purchase a gun, you have to meet some

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

requirements. If you're a prohibited person, you have to fill out the paperwork. If you have a concealed carry permit, which I would still recommend for people because I think just taking the class was well worth it to me, but as a person, you-- you have personal responsibility with anything we do. You have personal responsibility with operating machinery. You have to take some personal responsibility when you do these things. And if you're a firearm owner, you have to take some personal responsibility to make sure it's stored safely. But again, we can pass all the laws in the world, but there's people who won't and there's really nothing you can do about it. And making this permit system, I'm-- I'm just failing to grasp that it does us any good. It just creates a bureaucracy. It adds another layer of charges that you can make after a--

ARCH: One minute.

FRIESEN: --person does something bad, but it's not preventing anything. Maybe if we had more mental health treatment centers that could deal with some people that might have access to a gun some time, maybe that would be the answer. But this I just don't-- can't wrap my head around how this helps anybody. Thank you, Mr. President.

ARCH: Thank you, Senator Friesen. Senator Flood would like to recognize 50 fifth-grade students from Norfolk Medical-- Me-- Middle School sitting in the balcony. Please rise and be recognized by your Legislature. Thank you. We will continue with debate. Senator Geist, you're recognized.

GEIST: Thank you, Mr. President. I do stand in support of this, the amendment and-- well, I stand in support of AM1757 and LB773. But, as I have been discussing with some of my colleagues, I also have an amendment. It's drawn up. It is rough, I would say, but willing to negotiate, those of you who are interested in having some training attached to this. I agree with Senator Friesen and every single thing he said. Personal responsibility is the-- the responsibility of the gun carrier. I, too, am a certi-- concealed carry permit holder. I do carry frequently. I shoot a lot and I love it. But I'm a responsible gun owner, and I do see value in training. I see value in knowing the laws of the state of Nebraska. So those of you who are interested in talking about that, I think we can maybe make some kind of negotiation to-- to work on getting this across-- at least to General-- across General File and maybe adding some training in on Select. But I-- I would be interested in having those conversations because I think that if that's something that's going to get us to a point where we'd be able to have this as an option in the state of Nebraska, those who

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

don't choose to carry a gun, please don't. I would just recommend you don't. Nobody's going to make you carry a gun. But if you do, it is important that you know what your responsibility is, and that is the onus on every gun carrier. Whether you have formal training or not, it's just logical to get some training about a gun if you choose to carry one. Those of you who are not law-abiding citizens, I doubt this is going to change your choices at all. So to that end, I will be happy to talk with any of my colleagues off the side and we can see what we can come up with. And I would yield the rest of my time to Senator Flood.

ARCH: Senator Flood, you're yielded 2:45.

FLOOD: Thank you, Mr. President, members. Senator Lathrop asked the question, Senator Brewer, and essentially said, you know, what happens when I, you know, go to Cabela's and I buy a gun? And I think Senator Brewer answer those questions. But I think it's important to remember we're talking about the ability to conceal-- to carry concealed. I saw somebody in the Rotunda today that was open carrying in our State Capitol. That is your right, right now. You can put this on your hip. We're talking about the difference between putting it on your hip or tucking it behind your jacket. And we already have a system, as Senator Morfeld and I have talked, in 28-1202. That statute allows you to carry concealed as it-- as an affirmative defense to any criminal liability if you present a reason. What I'm saying here, and I think what Senator Brewer is working on, is trying to find the sweet spot for people, especially with AM1757. I would offer this as a potential next step. I can sense there's a willingness on Senator Brewer's part to get this over the line. Senator Brewer has worked on this. This is his priority. This is more than a priority for him. What if we adopt LB773, we put an effective date of July 1, 2023, on the bill, and give all of the different players that want to nuance the different next steps the opportunity over the interim and next session to adopt language that refines it? That would be an idea. That would allow us to move forward with LB773. You could set the effective date to August 1, 2023, to give it plenty of time--

ARCH: One minute.

FLOOD: --for the effective date to go into effect. I think what Senator Geist is offering here in her amendment is-- is the-- the conversation about training. I think this is-- this is constitutional carry. The state of Wyoming did this. Guess what? Concealed carry permits went up. People still want the permit, they can go to other states that aren't constitutional carry. Plus, they lay that down at

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

Cabela's and they avoid the background check. There is some value to the program. But I-- I personally don't want to put requirements on this at this point. I think we could set the effective date for August 1, 2023, we could see LB773 become law, and we could work between now and then to refine it and we have an entire legislative session to work on it. Thank you, Mr. President.

ARCH: Thank you, Senator. Senator Ben Hansen, you're recognized.

B. HANSEN: Thank you, Mr. President. Sitting here listening to the-- to the debate, which is encouraging to actually have debate and work through the logical aspects of the bill and with some forethought and some options and some opinions, but-- but listening to everyone's arguments, I-- just one kind of argument that kind of keeps kind of sticking in my head here a little bit, and I was hoping Senator Morfeld could answer a question for me.

ARCH: Senator Morfeld, will you yield?

MORFELD: Yes.

B. HANSEN: OK, thank you, Senator Morfeld. So is there any other right, any inalienable right you can think of, where we require training in order to exercise that right?

MORFELD: I'm trying to think. A constitutional right, I'm assuming, is--

B. HANSEN: Yeah, inalienable right, yeah.

MORFELD: I'll have to think about that and get back to you.

B. HANSEN: OK, I appreciate it. Now this-- one of the arguments I can't-- he-- keep hearing coming up is this idea that we can put reasonable restrictions on inalienable rights. And I think to some degree that would do. For instance, Senator Morfeld has said you can't yell "fire" in a crowded theater. OK, well, that makes sense. But in the same aspect, if we're talking about putting training on rights that are inherent, that means then we should probably be taking training classes in not yelling "fire" in a movie theater before we go into a movie theater. And if you fail that training course, then you can't go into a movie theater. That's kind of how this sounds to me, and it doesn't sound right. So the idea that we require training to exercise a right, a God-given right, is not right. That's like somebody who wants to exercise their Sixth Amendment for-- for counsel saying, OK, well, now you have to take a class in criminal justice in

order to exercise your right for counsel and if you don't-- if you don't pass it, then you can't have counsel. Or the First Amendment, maybe only those who-- you have to study journalism in order to exercise your right to free press. We don't do any of that stuff. And they might-- one of the arguments they might say is, well, it's because we're-- we're-- we're talking about a deadly item such as a gun. I'll tell you what, speech is sure deadly and it can be, so we should have training on that. Pick-- picking the wrong-- wrong type of counsel, if you're facing jail time, can be deadly. So I think we need to-- we need to think about that whenever that argument comes up, because we have no other-- I couldn't think of one. I cannot think of any-- any other inalienable right where we require training or some kind of bar we have to meet in order to exercise that right and if you don't pass that bar, you can't exercise that right. I know a lot of people who have gone to carry concealed classes. Some haven't made it. Some have failed for-- for different reasons, and that means now they cannot exercise their right, and I think that is wrong. Thank you, Mr. President.

ARCH: Thank you, Senator. Senator McKinney, you're recognized.

McKINNEY: Thank you, Mr. President. I rise again opposed to LB773. I'm supportive of AM1794. But since Senator Brewer brought it up in conversation about my position on Omaha Police Department, yes, I do not like them because they're unreasonable, they discriminate, and they disproportionately arrest individuals from my community. But on the conversation about AM2106, which would amend LB773 to provide that a person shall not carry a handgun concealed on or about his person while engaging in the commission of-- of a covered offense, this amendment rebroadens the crime of carrying a concealed weapon. The listings of covered offenses are also crimes that target people of color or involve crimes that are overcharged against people of color. So maybe not-- maybe they're not outright racist, but inherently or overt-- covertly, they-- they are. So, for instance, one of the covered offenses is any violation involving a controlled substance under Section 28-416. This would be simple marijuana possession. The ACLU of Nebraska noted that black people are three times more likely than white people to be arrested for possession in Nebraska, even though black and white people use marijuana at a similar rate. Another covered offense is any violation of certain city ordinances. These type of ordinances only exist in Omaha and to a lesser extent in Lincoln. Most of Nebraska's people of color live in Omaha or Lincoln and, therefore, they only will be prosecuted for these covered offenses. In other words, in rural white Nebraska, these ordinances do not apply. This part of the amendment creates a crime that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

disproportionately impacts black people. By the way, this is why I think we should do racial impact statements on bills like this, so that we can appreciate the impact of these bills on people of color. That's the thing. And then, you know, doing some research and reading some stuff, I found an article on The Hill: Actually, gun restrictions will affect the black community. And in this article, it says: Today, gun control legislation aggravates the criminal justice crisis in the United States having a disproportionate impact-- impact on black Americans. The most recent available data from the United States Sentencing Commission shows that in fiscal year 2018, more than 56 percent of federal firearm offenders were black. Black Americans are more likely than any group to be convicted or subject to a firearms offense carrying a mandatory minimum. For the country's black communities, on-the-ground enforcement of tougher gun laws will mean harassment at the hands of police, more arrests, and more harsh sentences. This is something we have to understand, that leaving Omaha as is doesn't help my community. The original bill would have helped because it would have decreased the amount or the availability of the Omaha Police Department to target and disproportionately arrest individuals. But with the amendment of AM2106, it keeps it the same and still allows the Omaha Police to discriminate. That is my opposition. No, I do not like them. I don't. It's-- it's clear, and I know they don't like me either, which is-- I'm-- I'm cool with. That's-- it's something that I'll live with for the rest of my life. I don't care. But that's something we have to understand, that standing up and advocating for a bill and saying we're--

ARCH: One minute.

McKINNEY: --this and this for police, it's whatever, but you're disregarding the fact that the police disproportionately discriminate in my community. And that's my problem. You can't look past it. It's a fact. It's truth. All the data is there. Go read the reports. You can't look past that. So excluding Omaha in some "wordsmithy" way doesn't help me or my community. It still allows the police to discriminate against us and that's my problem. Thank you.

ARCH: Thank you, Senator. Senator Matt Hansen, you're recognized and this is your third opportunity.

M. HANSEN: Great. Thank you, Mr. President, and good afternoon again, colleagues. Colleagues, talking about these issues as a constitutional right, we've had already some people kind of compare this to other constitutional rights. And I'll-- I'll remind you that every constitutional right we have in the constitution has been a-- a long

history of showing what the government can and cannot do. And you can take the plain language of the constitution, read it out loud, and maybe project what it could do, but if you don't look at case law or history or precedent, you don't necessarily know that it's actually much more restricted than what you would say. For example, we just talked about having the right to counsel. Yes, you do have a right to counsel, but the states can regulate that as a profession. You have to take and pass the bar exam and be admitted to bar to practice in the state. You do not have the right to hire a nonattorney to represent you. You do not have the right of whoever you want. You have the right to hire an attorney licensed in the court that you're being charged in. People are eligible for public defenders provided that they are both indigent and facing the risk of jail time. If you have a high income or you're facing only a fine, you don't have a right to a public defender. That's just on the right to counsel. I mean, the First Amendment right, we talk about First Amendment right, freedom of speech already has been noted. Yes, there are strong protections for that in a lot of instances. But certainly, the government has time, place, and manner restrictions on other things. It is to a pretty high level constitutional right, civil liberty. There are still pretty clear things the government can and cannot do. We talk about voting. Voting got brought up earlier today. We talk about voting. To vote in Nebraska, you have to register several weeks in advance and provide proof of address. You have to pre-register several weeks in advance in order to do something. Colleagues, that's-- take away the-- ignore training for the moment, but that's pretty close to what some of these concealed carry permit or purchase permits are, is the act of pre-registering with the government. There are lots of things we do conditionally in lots of other aspects, so to just kind of get up and say it's a constitutional right and everything else isn't our purview is, in my mind, ignoring all the other ways that the government can and does have to kind of provide for some sort of method of operation. Taken to an extreme, obviously, every constitutional right or every civil liberty could lead to some kind of absurd outcomes, which is why we have the opportunity as a Legislature, as long as we do it fairly, as long as we do it with a compelling state interest, as long as we do it in a certain manner, have the ability to wade into these issues and provide for certain reasonable regulations. And in my mind, again, for concealed carry, asking for there to be some sort of permit and some sort of training is not saying you don't get to bear arms because, as everybody's noted, you can open carry. And to me, the difference between concealed carry and open carry, obviously, is, of course, knowing whether somebody is armed, because I don't know about you, but if I walk up to a stranger and I realize they're armed, I have a very

limited desire to be in their presence because I don't know. I don't know anything about them. If I-- they're open carrying, I at least have the ability to see that and decide, is this a business I want to walk into, you know, is this a place I want to be? If they're concealed carrying, I don't know that at all, and so that is why I have the hope and the desire that anybody who is concealed carrying in the state of Nebraska has either passed a background check with some training or isn't allowed to and is, in fact, violating the law, because if they're open carrying, I at least can make a decision of, do I want to walk into that store, do I-- am I comfortable in the situation, should I, you know, cross the street, should I leave, because people [INAUDIBLE] up-- get up here and talk about,--

ARCH: One minute.

M. HANSEN: --you know, the lawful gun owners, you know, the law-abiding citizens. Colleagues, I don't know about you, but I cannot just look at a person and decide if they are a criminal or a law-abiding citizen just by their mere presence in front of me. I don't know, and I have no way of knowing. And for me, I understand people are concerned about being assaulted, and that's part of the concern I have too. But I'm also concerned about the gun owner doing that because I do not see a person carrying a gun as an automatic safe person, and that is why I want to know that, either open carrying, I can make a reasonable determination about my own safety, knowing-- the best of my knowledge; or two, have some comfort in knowing that they've either passed a background check or doing it legally and can be arrested for doing that. That's the basic premise here. People have said they don't understand the basic premise. That's it, like I can look at somebody carrying a gun and to say I know what category they could fit into because they're open carrying and I can at least--

ARCH: Time, Senator.

M. HANSEN: --decide on my own safety. Thank you.

ARCH: Senator Brandt, you're recognized.

BRANDT: Thank you, Mr. President. Let me start off by saying I am in full support of LB773 and all the underlying amendments. What I'm going to do now is, on page 17 of the amendment, is read about half a page here of where you cannot carry a concealed gun, permitted or not permitted, in Nebraska. And this is the list, and it starts off, Section 9(1)(a): A person, other than a minor or a prohibited person, may carry a concealed handgun anywhere in Nebraska, except any:

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

Police, sheriff, or Nebraska State Patrol station or office; detention facility, prison, or jail; courtroom or building which contains a courtroom; polling place during a bona fide election; meeting of the governing body of a county, public school district, municipality, or other political subdivision; meeting of the Legislature or a committee of the Legislature; financial institution; professional or semiprofessional athletic event; building, grounds, vehicle, or sponsored activity or athletic event of any public, private, denominational, or parochial elementary, vocational, or secondary school, a private postsecondary career school as defined in section 85-1603, a community college, or a public or private college, junior college, or university; place of worship; hospital, emergency room, or trauma center; political rally or fundraiser; establishment having a license issued under the Nebraska Liquor Control Act that derives over one-half of its total income from the sale of alcoholic liquor; a place where the possession of or carrying of a firearm is prohibited by state or federal law; a place or premises where the person, persons, entity, or entities in control of the property or employer in control of the property has prohibited the carrying of concealed handguns into or onto the place or premises; or into or onto any other place or premises where handguns are prohibited by state law. And with that, Mr. President, I would yield the rest of my time to Senator Moser.

ARCH: Senator Moser, will you yield? I'm sorry, Senator Moser, you've been yielded 2:07.

MOSER: Thank you, Mr. President. I support LB773. The change that it makes, I think, is important to our rights as Americans. It doesn't allow people who are prohibited from having a gun to carry legally. If they don't qualify, they can't get the permit to buy the gun in the first place. The question is, you know, whether they have to wear-- wear it openly or whether they can have it concealed. They may still want to have a concealed carry permit to have reciprocity in adjoining states. It is a lot of responsibility to carry a gun. And if you pull your gun out of your holster in a situation, you could be a help or you could be a hindrance. So there's-- there is a tremendous responsibility. If the person who you think committed a crime is--

ARCH: One minute.

MOSER: --getting away from the scene of the-- the crime, you can't drop them when they're running away. You have to feel imminent danger. You have to be challenged yourself before you can draw and use your weapon. So there is a lot of responsibility involved, but AM1794, I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

think, needs a lot more study before we pass that-- we would be passing that. AM1757 is-- is a compromise Senator Brewer worked out with the Omaha Police, and if that's what it takes to get it to work for them, I'll support that. Thank you.

ARCH: Thank you, Senator. Senator Flood, you're recognized and this is your third opportunity.

FLOOD: Thank you, Mr. President, members. Thank you, Senator Brandt, Senator Moser, for your comments. My constituent, the Pierce County Sheriff, is standing out in the Rotunda. He's been the sheriff of that county for a very long time, and he supports Senator Brewer's LB773. He took the time to drive down here, about 2 hours and 15 minutes, because he felt that strongly that this is something that should be allowed for people in this state. I want to make the point that when we passed this in 2006, everybody said the world was going to come crashing down and it didn't. And you might recall that at that time, municipalities had the ability to not opt in or, you know, you could still prohibit concealed weapons, and we spent the better part of the next couple of years figuring out preemption. That was the issue. And so think about the hoops that we've walked through. We set up the permit process. We dealt with the issue of preemption. Senator Brewer arrives on the scene, begins having this conversation with Nebraskans, and here we're talking about constitutional carry. Meanwhile, 21 states have it. Twenty-one states have it. Show me the data in those 21 states that says this is a public safety threat. We're talking about the law-abiding gun owners in Nebraska, many of whom, like in states like Wyoming, permits have gone up, training has gone up. It seems odd, but it's the case. Again, the Pierce County Sheriff is here. I represent two counties, Madison and Pierce County, southern Pierce County. The sheriff himself is down here to advocate for the passage of this bill. Mr. President, I-- I think when I share this, Senator Brewer, where he's going, what he wants to do, we aren't breaking new ground here. We're simply adopting what 21 other states have done. I would offer again that if-- if the body would be willing to put an effective date down the road, we could-- we could work some of this out. If not, I'm certainly going to vote for Senator Brewer's amendment. I'm going to vote for the underlying bill. I will not vote for Senator John Cavanaugh's amendment. And I would give the balance of my time, with your permission, to Senator Ben Hansen.

ARCH: Senator Ben Hansen, you've been yielded 2:18.

B. HANSEN: Thank you. I just want to speak to something that Senator Matt Hansen said, who might actually be like my 12th cousin, twice

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

removed. I don't know yet, [LAUGH] so-- but Senator Matt Hansen actually is very good at bringing up points and debating, and I always appreciated that. And I think he-- and I-- I want to make sure I'm not speaking out of turn. But I-- I think what he said was the government does put restrictions on rights such as voting. We have to show that-- we have to prove that we are a resident in order to vote. And so that is a-- in my-- in my mind-- I-- I'm not a lawyer, but that is more of a narrowing or a tailoring of a right, not making somebody take a training in order to prove they are able to exercise that right. That would be like us requiring people to take a civics class before they had to vote. I think we can all justifiably say that is wrong, just as in taking a class to exercise your Second Amendment rights is fundamentally wrong. I think one thing he might have mentioned also is that he can't tell, and I don't think any of us can--

ARCH: One minute.

B. HANSEN: --a criminal versus a noncriminal. And so I think he's exactly right also. But, however, it seems like we are treating people who want to own a gun and carry on their person, whether concealed or not, as a criminal first and now you have to prove to us you are not a criminal in order to exercise that right. And I don't know any other right where we do that as well. So the dichotomy between our Second Amendment rights and everything else, the differences kind of point out quite a bit more to me now when I'm listening to debate, and that's just one of the other points I just wanted-- I wanted to mention. So thank you, Mr. Speaker.

ARCH: Thank you, Senator. Senator Morfeld, you're recognized to speak and this is your third opportunity.

MORFELD: Thank you, Mr. President. And, colleagues, I want to respond a little bit to Senator Hansen's point. I-- I appreciate him bringing up the training point. I think the difference between having to train to be able to carry a concealed firearm and taking a civics class is I don't know of too many civics classes that have been used to kill people. I don't know of many civics classes that are considered a dangerous weapon. And so there's a difference in comparing having to have minimum qualifications, training to use a concealed firearm, and having to vote or having the right to counsel or the right to free speech. And let's be clear, it's not an absolute ban on the right to bear arms if you don't have a permit and training. You can still bear arms. You can actually open carry, as we've discussed here. Now some folks go, well, you can open carry and you don't have to have a permit and training, but you have to in order to conceal carry. Now, going

back to my original point, I think there is a heightened level of responsibility if you are concealed carrying because people do not have notice that you have a firearm, and so people can't react or respond differently based on that knowledge. That being said, I think people can make reasonable arguments that you should have the same amount of training and the background check if you open carry. It just so happens that we didn't pass a law around that. I may support that, actually, because I do think the training is important, I do think the background check is important, and I do think that people that carry firearms in public should have some type of training and some type of permitting process. But that's not the law. And I'm term limited and I'm not going to introduce it. I haven't introduced that over the last eight years. But that's not to say it wouldn't be a bad idea. So, colleagues, the reason why we have a training and a permitting process is because you have a heightened level of responsibility if you are a concealed carry owner, because people do not have notice that you are carrying a firearm. So there is a heightened responsibility. And if we want to talk about how there's a disconnect between concealed carrying and open carrying in the requirements, we can have that conversation. But I think I can make a pretty good case for there also being training and permitting requirements for open carry as well. I don't necessarily think that we shouldn't, but that's not what's before us. What's before us is this. And, colleagues, I think we have to remember that not-- that constitutional rights are not absolute. They are heightened, as they should be, but they are not absolute. There can be reasonable rules and regulations if there is compelling state interest, and there is a compelling state interest when it comes to things like, yes, the Second Amendment, but also the First Amendment as well. And we have plenty of reasonable restrictions for the First Amendment. You have to get a permit to be able to have a parade. You can't yell "fire" in a crowded room when there's no fire. There's all types of different permitting requirements and other things that are required to exercise those fundamental rights. If you want to start a religious organization and you want to avail yourself of certain special exemptions, you have to file some paperwork and you have to follow some laws. So, colleagues, I go back to a few different things. One, what is the purpose of this law?

ARCH: One minute.

MORFELD: The purpose of this law is to ensure that people have the requisite and proper training if they are going to conceal a firearm and carry it. I will be honest. Did it take me a little bit of time like everybody else? Absolutely. Was it valuable? Absolutely. Now can the cost be a barrier? I agree that it can. And as I have noted, I am

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

open to a compromise where we would completely eliminate the cost of the permit and the training. It's something I'm willing to agree to. I think that that would be prudent, and I think it would make it more accessible to more Nebraskans. Thank you, Mr. President.

ARCH: Thank you, Senator. Senator Pansing Brooks, you're recognized and this is your third opportunity.

PANSING BROOKS: Thank you, Mr. President. So I've just-- there's just so many different questions. Senator Morfeld said he'd be in favor of getting rid of the-- the cost requirement. I, too, would be in favor of that. I'm not there on the lack of training. I do think training is necessary. Just like when you drive a vehicle, which can be used in a deadly manner, there needs to be training. And, you know, I-- one of the previous senators today, this morning, talked about-- about Nebraska statute 28-1202 and said, oh, well, we already allow concealed carry. That's-- that's just not true. What we allow is the affirmative defense for concealed carry: 28-1202, subsection (b) says it's an affirmative defense-- first, under (a) it says that, except as otherwise provided, any person who carries a weapon or weapons concealed on or about his or her person, such as a handgun, knife, brass or iron knuckles, or any other deadly weapon, commits the offense of carrying a concealed weapon. So right there we have created the offense. In (b) it talks about an affirmative defense that the defendant was engaged in any lawful business calling or enjoyment-- employment at the time he or she was carrying any concealed weapon or weapons and the circumstances in which such person was placed at the time were such as to justify a prudent person in carrying the weapon or weapons for the defense of his or her person, property, or family. So it's just not true that we don't have a carry-- a concealed carry law. We allow for an exception for an affirmative defense, which is the prudent person standard in self-defense. So, you know, that's a little bit similar to some of the laws that we've had before regarding Narcan when a-- when a-- somebody is-- is calling in on a-- calling 911 and they shall not get charged. This is an instance where a prudent person would recognize that-- that a person was carrying and concealed carrying and it was determined that it was in-- in defense, in their own self-defense. The next thing I wanted to talk about, and I've lost Senator Brewer here, but we have a lot of-- I've talked to Senator Geist off the mike because she's offered to work on a-- an agreement, and I'm happy and open to talk about an agreement. And-- and she is talking about something that would-- would change it so that we have an ability to have a con-- have concealed carry but have training, and I appreciate that. And we've talked about both online and in-person training. I feel like it needs to be in-person, but I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

agree-- I appreciate the fact that she's attempting to talk about this with us and-- and find some sort of common ground. What I'm concerned about is that there's confusion about concealed carry and constitutional carry, and I'm happy to have anybody-- I was hoping-- oh, Senator Brewer, are you available for a question?

ARCH: Senator Brewer, will you yield?

BREWER: Yes.

PANSING BROOKS: Senator Brewer, what-- can you explain to me the difference between constitutional carry and conceal carry?

BREWER: Yes. We'll start with concealed carry. So concealed carry is the current program that we're using, would require you to go through Nebraska State Patrol to get a background check, fingerprinting, and you would be given a concealed carry card once you've completed--

ARCH: One minute.

BREWER: --your-- once you've completed your training. With constitutional carry, you have to follow the same rules. Everything stays the same as far as the places you can't and can't go, duty to inform. All that stays the same. It's just you're not doing the piece where you have to go through the fingerprinting and the-- the Patrol.

PANSING BROOKS: OK, thank you for that explanation. Again, I-- I guess I'm just-- concerns-- we had a senator previously talking about having a study, that we should pass the bill and then have a study. I'd rather study it and then pass the bill once we know what the best options are for this bill. Thank you, Mr. President.

ARCH: Thank you, Senator. Senator Machaela Cavanaugh, you're recognized and this is your third opportunity.

M. CAVANAUGH: Thank you, Mr. President. Good afternoon, colleagues. I wanted to speak to Senator Ben Hansen's question about constitutional rights and whether or not we have anything similar to what we have in Nebraska with concealed carry. So in 1973 there was in a court-- there was a court case in the Supreme Court and it was decided that the-- due to the Fourteenth Amendment under the due process clause provides a right to privacy for women's reproductive health. Women's reproductive health is deemed a constitutional right. It is not free. It is not without barriers. It is not without extreme obstacles. It is not without the input of a lot of men. It costs a lot of money to have a child, to give birth to a child. It costs less to terminate a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

pregnancy, but it still costs something to exercise your constitutional right. It costs money to get birth control, contraception. It is expensive to be a woman, and it is a constitutional right to have autonomy over our reproductive health. I have to go to a certified licensed medical professional for my reproductive health, so I have to find a specific person who has gone through specific training for my specific needs. But it is my constitutional right to make my choices for myself, so there is a constitutional right that is treated, in my esteem, far more egregiously than whether or not you can purchase something and how you purchase it. I'm actually surprised that nobody else said that first, because I was in the queue for a long time after that question was asked. And I was like, well, I mean, reproductive health is a constitutional right. I guess we forget about that because we have taken so many pains to pretend like it's not, to pretend like women are not a real, living, autonomous being, but that we are a thing to be treated like purchasing a gun. I 100 percent disagree with eliminating any training. I don't care if the state pays for the training. I don't care if the state pays for the licenses. But if you want to do anything different with guns, mandatory training that can be free, in my mind, is essential. You force a woman to have an ultrasound before she can terminate a pregnancy. I'm pretty sure you can handle taking a gun class before you can have a gun. Thank you.

ARCH: Thank you, Senator. Senator Lathrop, you're recognized and this is your third opportunity.

LATHROP: OK, thank you, Mr. President. You look great up there, by the way. [LAUGH] Good afternoon, colleagues. This is my third opportunity. I appreciate-- I-- I have been here for, in this session, for debates that have not been serious policy discussions and this one-- this one is. And I appreciate the-- the tenor of the debate and the exchanges and the seriousness with which people who are for or against are treating this subject matter. When we were in committee and heard this bill, LB773, a couple of things you ought to know. By the way, we talk about the-- the chief of police of Lancaster County, the Omaha Police Officers Association came in, in opposition. They've gone to neutral with a yet-to-be-introduced amendment, so this wasn't just one police chief who happened to come to Lincoln by way of California that we seem to want to bring up. But the OPOA had a problem with it, too, and they're neutral now with an amendment. I bring that up because I think some of the debate has focused on statements or comments made by the Lincoln Police Chief. Two of the issues that we heard in committee, two of the-- the rationale-- and when people came in, by the way, they were-- they were-- they felt very strongly about it, as Senator Brewer

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

does, and they said it's the cost of getting the permit, which is \$100, and it is the cost of training. And what we heard today is now we have people that will volunteer to do the training. I want to talk about the training for a minute. There's been some discussion about trying to reach a compromise, letting people do online training. And I gotta tell you a little story. I'm happy to be and proud to be a member of the State Bar Association. And during COVID, the good folks over at the State Bar Association said, we're not going to make you go to a training, you can do it online. So now I-- now I can sit at my desk and pull up a training pod, register, and watch something on my-- on my-- on my computer. I'm looking at Senator Flood right now because he's probably done a little remote online training with the Bar Association, and my guess is that Senator Flood and I both maybe did some other work in the office while our training module was on. I appreciate the idea that we're trying to come up with a solution, but I don't think online training is going to get it done, and let me tell you one of the reasons why. First of all, you gotta-- you gotta demonstrate some ability to shoot a gun straight under the regulations. But the other thing is, I went to the training academy in Omaha, I took a tour of that, and the tour ends with you going into a room with a shoot/don't shoot video scenario. And it's like 360 degrees. You go in this room and there's voices and there's a guy sitting on a bench that's clearly mentally ill, and he's about to pick up a knife and come at you and you've got to make a split decision: shoot/don't shoot. Now I don't expect people who get a concealed carry permit to go through the kind of training that they offer at a police academy, but they ought to have something. They ought to know when they can carry it, where they can carry it. I thought it was interesting Senator Brandt just read a list of places you can't carry a gun to. I don't know if you were surprised by any of those things on the list, but you know what, if you don't need a permit and you don't need to go--

ARCH: One minute.

LATHROP: --through the class, you don't know that. Can you carry it across state lines without a permit? Can you go into the city of Omaha? Can I take it into a church? Where are the places that I can take it and not take it, and where-- when can I use it and not use it? Can I pull it out for a threat? Can I wave it around if somebody cuts me off in traffic? Those are the things that training provides answers to so that we're not giving-- we're not putting people in a place where they're going to get in trouble in the name of trying to make this easier. We've heard some testimony or some statements made on the floor that in other states that have gone to this type of "permitless"

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

carrier, more people are taking classes than before. If it's-- if the class isn't the problem, then what's the problem we're trying to solve? If we're willing--

ARCH: Time, Senator.

LATHROP: Thank you.

ARCH: Thank you, Senator Lathrop. Senator Ben Hansen, you're recognized.

B. HANSEN: Thank you, Mr. President. And, yeah, I-- I will concur with my colleague, Senator Lathrop. You do look good up there, so it's nice. So I just want to kind of push back on something Senator Morfeld mentioned earlier when he was kind of countering some of the things that I've said, and, again, another person that I do respect his debating skills and actually gets up there and gives some good points. And so I appreciate the back-and-forth that-- that he gives. He was-- his analogy-- not so much analogy, but his argument was training to-- how to carry a firearm is different from other types of training on rights due to the danger that they can impose. And so he used the idea of voting as not being deadly, and so hence why we may not have any training for it. But I can tell you what. Voting can be very deadly. If we vote for the wrong person, that can make the difference between something very bad happening and something very good happening as we've heard on the floor many times from people here, from our past Presidents. According to some here, voting for a certain past President was very deadly, so voting can have consequences, but we don't have training on it. We don't have voters take a class to say, look, let's just make sure you can tell the difference-- difference between a good candidate and a bad candidate, one who knows the constitution and one who may not know it as well. We trust the people to make that decision. Free speech can be very deadly. Ask anybody in Germany in the 1930s how free speech can be very deadly. It can happen here. They're different rights, but the argument is kind of the same, at least it should be the same. But for some reason, we treat the Second Amendment differently. It's time to trust the people of Nebraska and don't treat them like criminals. Thank you, Mr. President.

ARCH: Thank you, Senator. Senator Pahls, you're recognized.

PAHLS: Thank you. A number of us approach this issue maybe a little bit differently than those of you who have the law background. I'm going to approach this on a different look at the whole situation.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

Like I say, most of us, we do have our own baggage. And I'm just going to share some of my baggage. I want you to think back of several years when there were about five or six boys, high school kids, out hunting. We had a great time. So you go to one of the friend's houses and we sat around a table and started bragging about all the cottontails that we had shot that day. Now all of these individuals had been trained to some degree by their fathers and maybe their mothers, but by their fathers and their brothers. Well, we sat down and had breakfast. A little while later, one kid did not get up because we were so dumb to stack our rifles against the wall, and guess what happens? We weren't thinking. Now, if we had probably been given a little bit of training-- that's one reason why I think training is a key to a lot of things in life-- maybe we would not have been dumb to set half a dozen rifles up against the wall and sit down as young boys or young men are having a good time having breakfast and then all of a sudden the rifles fall over. That's some of the baggage that I'm carrying. I'm also carrying some baggage that a couple years ago, in the Millard school system, there was a principal who came to work full of joy. I knew her. She was full of joy. She was doing her job and some young man walked in and she no longer enjoys her job. Also, in that same setting-- I-- I would even think the Speaker would listen to me occasionally because I don't get up that often. Anyway, another-- another administrator was hurt and a couple other people. And the interesting thing about that, the interesting thing about that is it was a-- a gun from a police officer's the son had taken and then did his thing, and then later on he committed suicide, which was not right. So I'm carrying that baggage. Another piece of baggage I'm carrying, when I served on the city council, the Omaha Police Department, they have a tendency to look at some of the issues because they deal with them in a different way. They were not very happy with some of our decisions. In fact, when they wanted to build a new juvenile detention center downtown, they were upset because they wanted to put fewer beds in it and then give more help to the individuals. They were-- and to be honest with you, and I ran, the police did support me, but they were so unhappy with some of the people on the county commissioners who voted to have that detention and a smaller number of beds, they went out and fought viciously. I saw some of the stuff that was going out--

ARCH: One minute.

PAHLS: --against one-- thank you-- against one of the commissioners. So my relationship with the city of Omaha, the police, I want to help them out, but I don't think they should pull us up and down. We're down here and we should do things that are-- that would be

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

appropriate. I am not against what the-- Senator Brewer is trying to accomplish, but I'm just saying that's the baggage that I'm carrying. I see the value of training. What that looks like, I don't know. And if it gets attached to it, that would be great, in my estimation. But I do not think that we ought to depend our life on the Omaha's City Police's expectations. Thank you.

ARCH: Thank you, Senator. Senator McCollister, you're recognized.

McCOLLISTER: Thank you, Mr. President. Good afternoon, colleagues. This is the first time I've spoken on LB773. I should start out by saying I have enormous respect for Senator Brewer. He has been a great Chair of the-- the Government Committee, and he has done an admirable job in shepherding bills through-- through that committee, including my bill, LB709. I made the mistake of bringing a gun bill to the Judiciary Committee three years ago, and I came to the quick conclusion I was really out of my element. You may remember that particular time in the Legislature where we had people bringing AK-47s and long rifles and everything into the-- into the Legislature and actually into the hearing. I'll never forget that as long as I live. Matter of fact, I still have photographs of people testifying with their AK-47s across their chest. Never forget that. And I also appreciate the-- the class on constitutional law that we have had here today. It's been fascinating. Some of the lawyers in this body can explain things particularly well. And I think we've appreciated and benefited from that. About this particular bill, I think I value that the training compo-- the training element is currently required for a concealed carry permit, and I would hope that we can figure out some way to continue that. Yeah, maybe some online combination, but I think somebody should be able to go to somebody that teaches these classes and demonstrate that you can actually fire these weapons and are proficient at it. I think that may be something we-- we should look to continue on this bill. And finally, I appreciate Senator Geist's efforts. I hope we can come to some-- some realistic basis to deal with this issue, finally. I know people feel strongly about it, particularly in the western part of the state. Now, in my area, in Omaha, the emails I get are in support of maintaining the-- the permit process that we have. One more thing, I think there is some benefit to going to the sheriff and getting another background check, even if you already have a handgun permit and if you purchased weapons before at a retail store. I think there is a hole that we need to fill with these gun shows, and you can buy a gun in one of those gun shows without actually going through the background check process and I think that's an issue we need to deal with, not today, perhaps, but sometime in the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

future of this Legislature. So those are my thoughts so far, Mr. President, and I'm going to listen to the continued debate. Thank you.

ARCH: Thank you, Senator. Senator DeBoer, you're recognized.

DeBOER: Thank you, Mr. President. Good morning-- wait. Good afternoon, colleagues. Some of you know that I'm a little under the weather today. For the record, I've had COVID tests, I'm negative, so it's not that. But I thought this was an important debate that I wanted to listen to. When Senator Brewer read the exchange between me and the Lincoln Police Chief, he probably should have stumbled over my words, too, or perhaps the transcribers are a little kinder to me than they should be, because I think I was asking a somewhat difficult-to-answer question at that moment. I am-- I'm a little torn because I think that we should have a way to have this training free for people. I understand it can cost even like \$300, maybe more. I don't know that, but I've heard the number \$300. That seems like a lot of money to me, and I think that we ought to have the ability for people to have that training for free. The training is very important to me. I think we should make sure that there is not just a sort of, if you have the wherewithal to figure out how to get the training, you know the right people to find out where to get the free training, then you can get it. I think-- I think we ought to make sure that everybody can get this training, should get this training, has the training. Maybe some people won't need it, and maybe that'll be eight hours of their life that they wasted, and I get that, that some people will have learned from-- from when they're young. But I'd much rather everyone waste eight hours of their life than we waste a life because somebody accidentally didn't know what they were doing and shot themselves. Some of you know that my sister died when I was young and that I was part of an organization called The Compassionate Friends. One of the things I remember most growing up, being at these conventions for The Compassionate Friends with siblings who had lost siblings, I cannot tell you how many times I was there with someone whose sibling had died because of gunfire. One of my best friends, her brother was killed in a hunting accident by their father. I'm not saying that kind of thing is often, but I saw the devastation to that family, and I definitely want to prevent that from happening, if we can do it, as many times as possible. So I definitely want to see training as one of the things that we do. Constitutional rights are very important to me, but we also have to make sure that we're protecting our state. There's always a balance in everything we do here. We have to make difficult decisions in this room. We have to make difficult balances in this room. We don't let people yell "fire" in a crowded theater. You can't sacrifice puppies as part of your religion. You can't lie about a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

private citizen as the press. There are limits to our constitutional rights. And I don't think any of us would want to live in a world where there weren't any limits at all to our-- to our rights. I think everyone in this room understands that there is some place--

ARCH: One minute.

DeBOER: --where we say, all right, we're going to-- we're going to put a small limit here. The question of where that limit needs to be, the question of whether it's too burdensome, I mean, that's a political-- that's a-- a policy question that we have to answer, I guess. And-- and I don't know. Eight hours of training-- the \$300, that's a different thing because that's-- that's kind of a thing that-- that keeps some people out and some people in. But eight hours of training, that seems like something that's really important to me. So I'm here coughing and listening and coughing and listening. There's now cough drops in a bowl if anyone else needs some. And I'm continuing to hear the points that are being made and--

ARCH: Time, Senator.

DeBOER: Thank you, Mr. President.

ARCH: Senator McKinney, you're recognized and this is your third opportunity.

McKINNEY: Thank you, Mr. President. I yield the rest of my time to Senator Morfeld.

ARCH: Senator Morfeld, you're yielded 4:50.

MORFELD: Thank you, Mr. President. Thank you, Senator McKinney. I can confirm that Senator Pansing Brooks has a bowl of chocolates and Senator DeBoer has a bowl of cough drops, so depending on what your mood is or what your health condition is, we've got you covered here in row five and six. But in any case, I want to-- I want to go back to some of the current case law in-- in dealing with firearms and the Second Amendment that is most current. And-- and in doing that, I want to reread, because I think Senator Pansing Brooks read this earlier in the morning, but I think now that we're in the afternoon, it's important to read some of this because people have been bringing up, well, what other fundamental right do we have that requires training or certain restrictions like this? And we've talked about some of the other constitutional rights that do have restrictions because there is a compelling state interest and usually that compelling state interest is to ensure the health and safety and welfare of our citizens and

residents in the United States. So going back to District of Columbia v. Heller, which I believe was actually written by Justice Scalia at the time-- yep, I'm getting confirmation, written by Justice-- Justice Scalia at the time, a well-known conservative jurist. So if you go to page 54 of that Opinion, it's a very long Opinion but this is, I think, the highlight, particularly for this conversation, quote, Like most rights, the second-- or, excuse me, like most rights, the right secured by the Second Amendment is not unlimited. From Blackstone through the 19th century cases, commentators and courts routinely explained that the right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose. I want to repeat that: the right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose. And then they cite the case: See, e.g., Sheldon, in 5 Blume-- Rawle-- I won't read the whole citation. But moving on: For example, the majority of the 19th century courts to consider the question held that prohibitions on carrying concealed weapons were lawful under the Second Amendment or state analogues. I want to step back and say that again, quote, For example, the majority of 19th century courts to consider the questions held that prohibitions on carrying concealed weapons were lawful under the Second Amendment or state analogues. Our state analogue would actually be at the beginning of our constitution. Pull it out here. Statement of Rights, Section 1-- Article I, Section 1. Statement of Rights. All persons by nature are free and independent, and have certain inherent, unalienable rights. Among those are life, liberty, the pursuit of happiness, and the right to keep and bear arms for security or defense of self, family, home, and others, and for the lawful common defense, hunting, etcetera. So going back to the language: For example, the majority of 19th century courts to consider the question held that prohibitions on carrying concealed weapons were lawful under the Second Amendment or state analogues. And I'm repeating myself because we keep hearing arguments here about this being a fundamental right and this violates a fundamental right. It is clear under the current case law that it does not violate a fundamental right. There may be reasonable restrictions as long as there is a compelling state interest, and the court in Heller found that there is a compelling state interest. So moving on: Although we do not undertake an exhaustive historical analysis today of the full scope of the Second Amendment, nothing in our opinion should be taken to cast doubt on the longstanding prohibitions on the possession of firearms by felons-- so there's another restriction on that fundamental right-- and the mentally ill, or laws for-- forbidding--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

ARCH: One minute.

MORFELD: --carrying of firearms in sensitive places such as schools, government buildings, or laws imposing conditions and qualifications on the commercial sale of arms. We also recognize another important limitation on the right to keep and carry arms. Miller said, as we have explained, that the sorts of weapons protected are those in common use at the time. And this goes back to Senator Pansing Brooks's discussion about what common use and what type of weapons are considered common use with Senator Brewer earlier. It may be objected that if weapons that are most useful in military service-- M-16 rifles and the like-- may be banned, then the Second Amendment right is completely detached from the pref-- prefatory clause. But as we have said, the conception of the militia at the time of the Second Amendment's ratification was the body of all citizens capable of military service, who would bring the sort of lawful weapons that they possessed at home to militia duty. And with that, I'll end for now. Thank you, Mr. President.

ARCH: Thank you, Senator. Senator Jacobson, you're recognized.

JACOBSON: Thank you, Mr. President and colleagues. I've been listening to the debate all day today, and I'd like to boil things down into something fairly simplistic. I know we've talked about a lot of things today, but very little of it has to do with LB773. As I understand it, and I'm-- again, I want to be very simplistic here. My understanding is that LB773 says if this bill becomes law, that I can take what I already have as a right today to open carry a handgun, but now I have the ability to put it in my coat and not be breaking the law. That's what we're debating today. That's what we're debating in LB773. And I can tell you, there's not one person I can think of in my district that doesn't think that's a good idea, including law enforcement throughout the 42nd District. I understand that we've got AM1757, which is a minor change, and it's-- and it's through Senator Brewer's efforts to work with the city of-- the police department in Omaha, to work with them to help get overall support on LB773. So at the end of the day, my view is I'm going to support LB773, I'm going to support AM1757, and I'm likely going to vote no on the other amendment because I think we're getting a little more far afield of where we need to be. At the end of the day, I want to see LB773 become law. I think it's basic, it's fundamental, it's the right of the people who live in this state, and we need to get that passed. So that's all I have to say, but thank you for your time. I will be voting green on LB773 and AM757 [SIC--AM1757], and I'll be voting red on AM1794. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

ARCH: Thank you, Senator. Senator McCollister, you're recognized.

McCOLLISTER: Thank you, Mr. President. Good afternoon again, colleagues. I just stood up on the mike here not long ago and made the statement that in Nebraska you don't need some kind of background check and that was a mistake. I was mistaken in that view. In some states, yes, yeah, you don't-- you can purchase a handgun at a gun show without a background check, but that's not the case in Nebraska, so I needed to correct the record on that. Would Senator Friesen yield to a question or three?

ARCH: Senator Friesen, will you yield?

FRIESEN: Yes, I would.

McCOLLISTER: Off the mike, we were talking about the value of going in and getting a concealed carry permit from the State Patrol, and you chided me saying that there's really no value in that. Can you tell the body what-- what your reasoning was?

FRIESEN: Well, I-- a permit does not make you a legal person. I mean, I carry a gun in my pickup. And if I leave the gun laying on the seat in wide-open view where somebody could grab it, that's where I'm legal. If I hide it in my console or my glove box, then I'm illegal. But again, a permit doesn't make me a better person or make me a bad person. So how-- what good does a permit do?

McCOLLISTER: I understand. We talked about the value of training, and you go and try to get a concealed carry permit from the State Patrol and they require some training. Isn't that correct?

FRIESEN: Yes. The concealed carry permit requires training and I-- I did value the training. I think everybody as a responsible owner should elect to take that training. I don't know that it should be required because a lot of people are not going to probably carry a weapon just because they have a concealed carry permit. But, yes, I valued that training.

McCOLLISTER: If we were to-- willing or taking a look to expedite some of that training, what would you want to see continue in that training course?

FRIESEN: Oh, I don't-- I don't think the training needs to be expedited. I think the training, at least that I had, I thought focused on the things that needed to be focused on. It was gun safety,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

it was the laws that you follow, and then your mental attitude of carrying a weapon.

McCOLLISTER: So perhaps someone should demonstrate, going to the State Patrol or some training facility, an ability to actually fire that weapon and handle it safely. Should that be part of the-- the process in order to buy a handgun or concealed carry?

FRIESEN: I-- I don't feel that it should be part of it, but I do-- I would encourage people, if they want to carry, whether open or concealed, to study up and learn the law, because we've always said ignorance of the law is no excuse. The law is what it is, and by not knowing it is not an excuse for me to carry a gun where it's prohibited.

McCOLLISTER: Thank you, Senator Friesen. Thank you, Mr. President.

ARCH: Thank you, Senator McCollister and Friesen. Senator Halloran, you're recognized.

HALLORAN: Question.

ARCH: The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Has everyone voted who wishes to vote? Mr. Clerk, record.

ASSISTANT CLERK: 34 ayes, 0 nays to cease debate, Mr. President.

ARCH: Debate does cease. Senator John Cavanaugh, you're recognized to close on your amendment.

J. CAVANAUGH: Thank you, Mr. President. So I appreciate the discussion we've had. It was a lot longer than I expected. I think people covered some subject matter that was not within my AM. But to revisit what we've been talking about on AM1794, so the underlying bill here takes us to a place where-- well, LB773, without this amendment, without any future amendments, is how I wrote AM1794, and it rolled back the requirement of individuals to carry a concealed weapon, basically eliminated that offense. And so that's the-- AM1794 says that if we take conduct that had previously been considered unlawful and now define it as lawful and someone was previously convicted of that conduct, that person can go into court and use that as an additional argument to get their previous conviction set aside and their record as to that offense sealed. So under current law, you can still-- you can already do this. If you were convicted, you can go into court and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

you can petition a judge and you go in front of the judge and you say, Judge, I finished my sentence, I paid my fines, I've stayed out of trouble and I'm not likely to re-offend, and a judge can look at that and decide whether or not they are going to grant you that relief of a set-aside. And then you can go and ask that your record be sealed after the fact of that. And so what AM1794 says, if we were to repeal a section of the law and make that conduct that you were convicted under no longer a criminal offense, that you can go in front of that judge and say all of those previous things but, in addition, that this is no longer-- the offense that I was convicted of is no longer an offense. And so that is a principle that I think is important to articulate when we're having this kind of conversation. A lot of people have had this conversation and it's been wide ranging and it, I think, has been a very good conversation about how we view these issues. This is part of it, and this is an important part. And I've talked to a lot of people off the mike. A lot of people have asked me, you know, about this, whether it's, you know, controversial, whether it's problematic. And I recognize why some people will-- will not vote for this amendment. But I asked somebody. Senator Flood, I don't want to put him on the spot, but I put-- I put him-- I asked him after he said he was not for this and I said, you know, this is a good amendment, you should be for this. And Senator Flood said, I think, to paraphrase or quote, that when you-- if the conduct is against the law when you commit it, then it's against the law, something along those lines. About right? Yeah. And so Senator Flood-- and he, you know, to his credit, I-- I appreciate Senator Flood's perspective. He and I disagree quite a bit. We are often on opposite sides of issues. But I appreciate his, you know, generally, his tenor, his thoughtfulness, how he looks at things and goes through them. So he is entitled to a compliment. I will give him that compliment. And so I thought about this over lunch. He said that to me. And so I went up into my office and I was sitting there and I was thinking, said, well, that's a good point, Senator Flood. And then I thought about the conversation we've been having. And Senator Ben Hansen said "inalienable right," this is an inalienable right, which is in the Nebraska Constitution. It's not in the United States Constitution. And I thought about what other people have said, that this is a right given from God. And whether you believe that our fundamental rights, the ones articulated in, say, the Bill of Rights, the ones that we all say are above other ones, the freedom of speech, religion, to organize, are-- are fundamental, whether you think they are handed from God or they are derived from the consent of the governed to be governed.

ARCH: One minute.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

J. CAVANAUGH: I thought I had ten minutes. No? All right, well, I'd better round up, so-- but we are arguing here about whether or not this is an essential right and it is not a right that we are choosing to legalize. We are just recognizing what is, as Senator Brewer is arguing, would be fact that this is a right. And so when we are recognizing other constitutional rights, we should ensure that we are-- we are recognizing them in retrospect, as well as prospectively, and that is the point of AM1794. If you think that the right to keep and bear arms concealed is a fundamental, essential right, then you need to be for AM1794 because it is not just conduct that was illegal at the time, it was conduct that you believe was your constitutional right at the time. So that's why I'm asking you to vote for AM1794, is that we need to recognize in our laws, in our conduct, how we treat people consistently and not--

ARCH: Time, Senator.

J. CAVANAUGH: Thank you, Mr. President.

ARCH: The question before the body is, shall AM1794 to AM757 [SIC--AM1757] be adopted?

MORFELD: Call of the house.

ARCH: Now there is. There has-- there has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

ASSISTANT CLERK: 33 ayes, 8 nays to go under call, Mr. President.

ARCH: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Sorry, please check in. Senator Albrecht, please return to the Chamber. The house is under call. All members are now present. Mr. Clerk, call the roll in reverse order, please.

ASSISTANT CLERK: Senator Wishart voting yes. Senator Williams voting no. Senator Wayne voting yes. Senator Walz not voting. Senator Vargas not voting. Senator Stinner, he's-- Senator Vargas, you said yes? Senator Stinner voting no. Senator Slama voting no. Senator Sanders voting no. Senator Pansing Brooks voting yes. Senator Pahls voting no. Senator Murman-- Senator Pahls not voting. I'm sorry, Senator. Senator Murman voting no. Senator Moser voting no. Senator Morfeld voting yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

Senator McKinney voting yes. Senator McDonnell voting no. Senator McCollister voting yes. Senator Lowe voting no. Senator Linehan voting no. Senator Lindstrom voting no. Senator Lathrop voting yes. Senator Kolterman voting no. Senator Jacobson voting no. Senator Hunt voting yes. Senator Hughes voting no. Senator Hilkemann voting no. Senator Hilgers voting no. Senator Matt Hansen voting yes. Senator Ben Hansen voting no. Senator Halloran voting no. Senator Gragert not voting. Senator Geist voting no. Senator Friesen voting no. Senator Flood voting no. Senator Erdman voting no. Senator Dorn voting no. Senator DeBoer voting yes. Senator Day. Senator Clements voting no. Senator Machaela Cavanaugh voting yes. Senator John Cavanaugh voting yes. Senator Briese voting no. Senator Brewer voting no. Senator Brandt voting no. Senator Bostelman voting no. Senator Bostar. Senator Blood voting yes. Senator Arch voting no. Senator Albrecht voting no. Senator Aguilar voting no. Vote is 14 ayes, 30 nays, Mr. President.

ARCH: The amendment is not adopted. I release the call. Next item for the agenda.

ASSISTANT CLERK: Mr. President, the next amendment I have is from Senator Morfeld, AM1908. Excuse me, Senator Morfeld, I understand you want to withdraw AM1908 and substitute AM2297?

MORFELD: Yes.

ARCH: Without objection, so ordered. Senator Morfeld, you're welcome to open on your amendment.

MORFELD: Thank you, Mr. President. Colleagues, the amendment that was just substituted was an amendment that talks about what I've discussed on the floor that I think is a reasonable compromise, one that simply removes all of the-- the permitting fee requirements and the training fee requirements from this law. And in fact, just looking at it, because it just came down to Bill Drafting, I want to correct my statement. This would get rid of the permit fee requirement but not the training fee requirement, so that's something that we would have to work on. I literally just got this back down from Bill Drafting here. So this would get rid of the permit fee, but it would strike the rest of the bill, so I want to be clear. And I think that we can also work together to figure out the training requirement because there is disagreement, quite frankly, on whether or not the training can be online or in person and then what that would actually look like. And I-- I think that there's reasonable disagreements on that. Personally, I'm more comfortable with an online training platform. I know that I have colleagues that are not so comfortable with that, and I think

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

they come at that from a-- from a good place, but that is not addressed in this amendment. This amendment, what it does is it strikes all the underlying language of LB773 and it gets rid of the fee requirement on the state level for that permit. And then what I'd like to do if this passes is work with Senator Brewer and other members of the body to also come up with a free training requirement as well, and perhaps that's something that we can do on Select. We can also, if we want, draft something while we continue to debate here as well. But the bottom line is, is that I've heard from many that the fee requirement for the permit is a barrier and that the training requirement and the fee associated with the training is also a barrier. Now the issue with making the training free is that the state would have to provide some type-- type of qualified free training because right now how you go out and get the training is you go talk to a certified instructor that's been certified by the state and is registered with the state. And so there's private instructors and you'd still be able to avail yourself of private instructors, is how I would see it anyway. But then I think we should also have a free training requirement, as well, because there are some instructors that also provide advanced training beyond what's required by the state. And so I don't want to discourage that and I also don't want to discourage somebody that wants to go to an instructor of their choice. But I do think that we should work on an amendment to this amendment or to the underlying bill if this-- this amendment is adopted that would outline a free training requirement on the state level that people can avail themselves of. And perhaps it could be a hybrid: part of the training is online, the other part is in person. So, colleagues, I do want to come to some type of agreement. Senator Brewer and I asked-- I outlined essentially what I said earlier. If we got rid of all the fees for both the training and the state permitting process, is that something you'd be amenable to? He said, we'll see, so he did not commit to anything, and I respect that. But this, in my view, is the first step towards compromise. And again, I just want to repeat what this will do is essentially get rid of the underlying bill and replace it with language that would end the state fee for the permit. And then what I'm hoping is that we can get people together if this passes and work on some type of free training opportunity at the state level. I would envision that to be perhaps either all in-person or a hybrid or online. I know there's people with serious concerns about it being online, so I don't want to commit to that, but making it more accessible from both a cost perspective and from just general accessibility. I think there's legitimate concerns around that. I thought that myself when I was getting my own CCW. I was able to afford it, but I can see how other people might not be. And if you

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

can't afford the permitting process, you definitely can't afford the training in many cases as well. So colleagues, I hope that we will seriously consider this. I don't know if it's going to be viewed as a hostile amendment or not, but I will tell you this is just one half to it. We have to be able to solve the training issue, too, if we're really going to solve accessibility. And I'm committed to working with Senator Brewer or anybody else on resolving that either on-- on General File or Select File if this amendment passes. And with that, Mr. President, I think I'm going to end for now, I'm going to have a little bit more to say once I get back on the mike here. Thank you.

HUGHES: Thank you, Senator Morfeld. Debate is now open on AM2297. Senator Blood, you're recognized.

BLOOD: Thank you, Mr. President. I believe I stand in support of this newest amendment. I'm going to sit and listen to the debate as always, and I actually would like to yield my time to Senator Morfeld if he'd like to get up and finish explaining it.

HUGHES: Senator Morfeld, 4:40.

MORFELD: Thank you, Senator Blood. You came up quick there. I wasn't ready. I was talking to another senator off the mike there. So I want to talk a little bit about the Heller decision and read into some of the-- read into the record the Heller decision, and also for some of our colleagues' benefit as well. So in District of Columbia v. Heller, I want to go to page 56. And this is again Justice Scalia's Opinion, and it starts with: We turn finally to the law at issue here. As we have said, the law totally bans handgun possession in the home. It also requires that any lawful firearm in the home be disassembled or bound by a trigger lock at all times, rendering it inoperable. As the quotations earlier in this Opinion demonstrate, the inherent right of self-defense has been central to the Second Amendment right. The handgun ban amounts to a prohibition of entire class of arms as overwhelmingly chosen by American society for that lawful purpose. The prohibition extends, moreover, to the home where is needed in defense of self, family, and property is most acute. Under any standards of scrutiny that we have applied to the enumerated constitutional rights, banning the home, quote, the most preferred firearm in the nation to keep for use of one's home and family would fail constitutional muster. So deviating from the language here quick, what the court is saying is that a ban, a complete ban on firearms in the home, which was proposed by the District of Columbia at the time and struck down by this court, was unconstitutional. It was a bridge too far, and that goes back to what is the compelling state interest? The compelling

state interest has to be somewhat logically connected to the harm that creates the compelling state interest. And in this case, people said, listen, it's a bridge too far, not people, the court, I should say, the Supreme Court of the United States said it's a bridge too far to essentially ban firearms in one's home. The compelling state interest to be able to protect people from gun violence cannot be met by simply banning firearms essentially within one's home. So that was a bridge too far. But it's important to go back to the beginning of the Opinion in which I read, because that is what is directly on point to the conversation that we are having here. And I'll go back to that language: From Blackstone through the 19th-century cases, commentators and courts have routinely explained that the right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose. And I want to go back to what-- one of the comments of my colleagues a little bit earlier of simply saying, listen, if someone's going to illegally carry a firearm, they're going to illegally carry a firearm. Why should we have this law? It's only-- it's only, you know, catching law-abiding gun owners. Well, that's the same thing as saying, listen, I drive down Interstate 80 every day to Omaha or Lincoln--

HUGHES: One minute.

MORFELD: --and I always see people speeding. So maybe we should get rid of the speed limit law. It's just getting otherwise law-abiding citizens tripped up with the law. Well, the reason why we have the speeding law is because there is-- now speeding is not a constitutional right and driving is not a constitutional right. But there is a state interest in making sure that people are going a certain speed limit, much like there is a state interest and in this case, a compelling state interest, in ensuring those that have concealed firearms have the requisite training, background checks to be able to carry those firearms. And the District Court of Colum-- or District of Columbia v. Heller and the United States Supreme Court found that those are reasonable restrictions and that there is a compelling state interest to be able to have those restrictions. So, colleagues--

HUGHES: Time, Senator.

MORFELD: Thank you, Mr. President.

HUGHES: Senator John Cavanaugh, you're recognized.

J. CAVANAUGH: Thank you, Mr. President. Well, I am not taking a position on AM2297 yet because I haven't read it, but I wanted to finish what I was getting at in my last comments. I spent too much of my time complimenting Senator Flood. So I'm not going to do that this time. So what I was saying is that, that is an argument that Senator Flood made that conduct was-- it was against the law at the time that the action was taken. However, we're here having a debate about whether or not these are fundamental rights, whether or not this is something the state should be engaged in regulating or not, which is a little bit different than a normal, you know, if you were to go and say, we're going to lower the speed limit from 65 to 55 and you got a speeding ticket going 60 at that time or raise it from 55 to 65 and you got a speeding ticket going 60, that is a different situation than what we're talking about here. As I was saying that Senator Ben Hansen referred to the-- the inalienable right aspect of the-- the Nebraska Constitution, and Senator Brewer has talked about these being God-given rights and that they are fundamental rights and things along those lines. And so when we're talking about the action like this of the Legislature, when we're talking about whether or not this is a fundamental right, we have an obligation not only to change things going prospectively, but we have an obligation to right the wrongs of the past. And so if you believe this argument that possession of a concealed weapon is a fundamental right, we have an obligation to correct the prior abuse of the state then, right? Isn't it-- isn't your argument, everyone's argument that's in favor of constitutional carry that the state is in essence overstepping and abusing people and overstepping the state's ability to regulate in this space? And so that is why I brought that amendment. That's why I was sincere about that amendment. And that's why I appreciate people who've had that conversation with me about the importance of that. And we've had conversations about future amendments that are going to come up and about their disparate impact, meaning that they affect some people differently than others. They have a disproportionate negative impact on some people. And the amendment that will come up later that I think is AM2106 is one such law amendment change. That it-- it would have a disproportionate impact on people in the city of Omaha; a disproportionate impact, as Senator McKinney said, on people in his community. And gun laws are criminal laws in the state have historically, for generations, disproportionately impacted adversely people in that community and that we have an obligation when presented with an opportunity to correct a historic wrong to take that action when presented to us. And so one such opportunity was presented today to make-- be, one, philosophically and intellectually consistent on that issue and to say that-- that our principles extend to protections

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

of individuals who are not us go beyond ourselves and protect people who we don't necessarily think of as part of our community and who have been adversely affected by these laws. And that was kind of what the opportun-- the option I presented and what I was arguing for. But again, I don't know where I'm at on AM2297. But--

HUGHES: One minute.

J. CAVANAUGH: Thank you, Mr. President. I'll push my light again. I'll read it. I'll get back in. There's a lot of people in the queue. But I think it's important to recognize that we're talking, a lot of people, many people, there are people here who support LB773 and probably the other amendments who argue this is a fundamental right. Well, AM2106 and the-- the denial of my amendment before is a firm recognition of the fact that we are not in agreement about that, that people do not recognize it as a fundamental right. Our actions do not reflect the fact that you think this is a fundamental right. And so that is what that vote was. That is what I'm talking about. And that's what I'm going to continue to talk about. Thank you, Mr. President.

HUGHES: Thank you, Senator Cavanaugh. Senator Matt Hansen, you're recognized.

M. HANSEN: Thank you, Mr. President, and good afternoon again, colleagues. Colleagues, I do appreciate the debate and discussion we've been having back and forth on-- on constitutional rights, civil liberties. And I do want to take the time and talk about that just a little bit more, including about the training aspect. And I do think it's fair to say that there's probably not a clear one-to-one comparison to training on something that I can necessarily think of. But it's also again, it's not the difference between you don't get to own or use or bear a gun at all. It is the ability to conceal the gun. Open carry, as we've all acknowledged, is allowed in the state of Nebraska. It's allowed in the Capitol. And that's to me the diff-- a difference and a key distinction, including a key distinction in which I think there is a compelling state interest to weigh in and have at minimum, some sort of training. And part of the reason I get to that point is listening to the proponents of this bill talk about what some of the goals or some of the outcomes of this are, including that we've had some discussion about kind of especially rural communities where there's minimal law enforcement, the desire basically to have more armed citizens who can then kind of form some sort of quasi law enforcement role to pick up the gap where there may be very few deputies spread over a very large area. And if that's the purpose and that's the goal or at least one of them that we want to encourage, I

think we have an obligation of the state to make sure that those people have some training. If our goal is to encourage citizens to take up this like kind of quasi law enforcement collective protection aspect, we better be sure they have an understanding of what we're asking them to do, which is why some element of training to me makes sense at a minimum, because we're talking about more than just above personal self-defense at that point. Obviously, I don't think people necessarily need extensive training on whether or not their own defense of their self. You know, you can recognize when you're in danger and when you're not. Most reasonable people can. But if you are going to say intervene in a situation from a distance as a bystander, I really hope you have a good sense of knowing what you're doing and that nobody is wrongfully harmed in the situation and encouraging those situations while also encouraging there to be less or no training to me is concerning and to me is sending the state down the wrong path. So that's one of the things that why having a training requirement to me is important, and I want to hear a pretty good reason for why we should get rid of it, especially if part of the reason, again, for this expansion of concealed carry is to kind of intervene in more situations, like in the absence of law enforcement. We're-- we're taking a very highly trained and regulated profession and in theory, kind of talking about uploading it with more volunteers, which is concerning to me just kind of in general. I think a great solution would be to increase, you know, coverage in areas where it's gapped. And so I wanted to highlight that. Again, when we're talking about this connected to that, we kind of keep getting to this phrase and we keep hearing it about the law-abiding citizen and this notion that there are, you know, criminals and there are law-abiding citizens, and that is two distinct classes of people. And at some point you fall into one category or the other. And for one group, laws always matter; for the other group, laws never matter. And don't get me wrong, I understand that people fall along the spectrum. There are certainly some people who with flagrant disregard for kind of society and our-- and our-- and our laws and for the safety of others. But those groups aren't as separate and distinct as you might-- as is portrayed on this floor. You know, plenty of people we know of situations, plenty of people go from law-abiding citizens their entire life.

HUGHES: One minute.

M. HANSEN: And then in a moment of anger, in a moment of frustration, maybe under the influence of drugs, something happens, and all of a sudden they're, you know, a violent felon. That's where everybody starts off in one category. Everybody starts off in the law-abiding

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

category until they're not. And so if one of the things we're talking about is this notion of the law-abiding citizens versus the other-- versus criminals, colleagues, that's a-- that's a-- that's a moving category. That's a thing that changes over people's lives. And that's when you just start talking in these absolutes, like there's no overlap, there's no groups, you're in one camp or the other. Colleagues, it's incredibly easy for somebody to make the jump from one camp to the other. And that's something we should keep in mind when we're talking about kind of the public safety policy of the state of Nebraska, especially with expanding access. Thank you, Mr. President.

HUGHES: Thank you, Senator Hansen. Senator Machaela Cavanaugh, you're recognized.

M. CAVANAUGH: Thank you, Mr. President. Good afternoon, colleagues. I stand for a correction. Before we broke for lunch, I said that I was just opposed to LB773 and that I wasn't interested in compromising. I'm not like dying to compromise, but I will say that if there is a compromise to be had, I agree with AM2297. And I believe that Senator Morfeld already mentioned this that it doesn't include, but I would like to see included in this AM or even amended into it that the Nebraska Commission on Law Enforcement and Criminal Justice shall offer the required training for free. I have no problem whatsoever with the state paying for the permit and the training, but I still want them to exist. And if the issue is that we are creating a barrier to a Second Amendment right to bear arms legally in Nebraska, then let's eliminate that barrier by not charging those fees. But we still need to require safety. So if we have to, if the state has to pay for the safety training, then let's do that. I don't know where the money will come from. I'm sure Senator Stinner is thrilled with me making this declaration, but perhaps it can come from-- I've learned a lot about fees lately, so we've spent-- when you get your driver's license, you pay \$24 to get your driver's license renewed. And it actually only costs the DMV \$14. You know what happens with that other \$10? It just goes to the General Fund. It could go to the Nebraska Commission on Law Enforcement and Criminal Justice. We can just direct that fee to that fund and pay for some of this. I'm not opposed to the state paying for you to get a concealed carry. I'm not opposed to the state paying for you to get your training. Obviously, I think everyone knows I have other priorities above that for how I'd like to see the state funds being spent. But I would put this above a lake and a canal, for sure. So if Senator Brewer is interested in entertaining Senator Morfeld's proposition here, we could maybe just move things along, in my opinion. So I don't really have a lot to say on this

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

other than that. And that was sort of my big thing on this is just making sure that we are-- when we're making changes to the gun laws in Nebraska, that we are being smart and that we are taking into consideration the safety and-- of our law enforcement and also taking into consideration the safety of our public. And I do believe firmly that if you are going to have a concealed weapon, deadly weapon, that you should have to go through training. Yes, people are going to break the law and have a concealed weapon when they shouldn't. But that's not what this is about. This is about law, lawful citizens wanting to carry a concealed weapon. We should require training, period. We require training to drive a car that can kill somebody. We should require training for a weapon. We require training before somebody can operate on you. Can't just like, say, hey, Bob, my stomach hurts. Would you mind cutting me open and taking a look? No.

HUGHES: One minute.

M. CAVANAUGH: You have to go through like a lot of training for that before that can happen. So I just hope that this is a serious conversation about a compromise. If it's not, that's OK too. I'm-- I'm fine with just not voting for things. But if it is, I just wanted to say for the record that I support that and I will be just paying attention to the debate. Thank you.

HUGHES: Thank you, Senator Cavanaugh. Senator Pansing Brooks, you're recognized.

PANSING BROOKS: Thank you, Mr. President. So I've mentioned a couple times I brought up Heller earlier and the case that affirmed that Heller applied to the states via the Fourteenth Amendment. What I-- I wanted to read a little bit into the record now is the case New York State Rifle & Pistol Association Inc. v. Bruen. So on November 3, 2021, this case was heard in front of the U.S. Supreme Court. They haven't ruled yet. There was discussion about just going ahead and passing the bill and then having a study. Or again, we could just have a study and wait till the Supreme Court rules and then we will know what the law is on concealed carry. In-- in the Bruen case, Robert Nash and Brandon Koch each applied for a concealed carry firearm license for the purpose of self-defense. The licensing officer denied both applications, finding that neither individual met the proper cause standard. And again, we hear about cause. We hear about the standard. The standard right now in our laws is the prudent person standard that there is an exemption-- an exception to the concealed carry laws in the state of Nebraska right now under the prudent person standard. If a prudent person would think that somebody had concealed

carried and-- but it was in the case of self-defense or a need that most people would think was a reasonable reason to conceal-- to conceal carry, then that is an affirmative defense. They are not found guilty at that point. So for our previous senators to have said, oh, we don't even have concealed carry in this state, well, that's just bogus. We do. We have an affirmative defense right now to conceal carry. And so I think it's-- it's interesting. The New York courts define proper cause as requiring the applicant to, quote, demonstrate a special need for self-protection distinguishable from that from the general community, unquote. So again, these are issues. These rights are not complete and 100 percent. They have-- they have ramifications, they have limitations. That's what the Supreme Court has continued to say now. Maybe they won't. Maybe they'll find out that they'll decide this in this term, which will be this summer, maybe they'll decide that anybody can conceal carry at any time that they want. And if that's what they decide, that's what they decide. Why-- why are we trying to hurry this through? I've talked with Senator Brewer's staff. They're very educated on this area-- in this area and, again, going straight to Senator Brewer's office, if there's any kind of-- of issue because they are all well educated, trained. They're just amazing people in that office. So I'm going to go straight there. They know that, but they're also fun. So that would be another reason to go there. So-- but when I was talking to Dick Clark, who is in Senator Brewer's office, he told a story about a woman in Omaha who was stopped and then told the police that she had-- she-- she had-- was concealed carrying, which is exactly what she is supposed to do under the law. And when that happened, then the-- the police said, well, let's see your concealed carry card. The woman had carried it in another purse, and so then they arrested her and put her in handcuffs in front of her children in the car.

HUGHES: One minute.

PANSING BROOKS: That's just wrong. So I agree something needs to be done that-- but that is just wrong. But I mean, in-- in our state now, if somebody is traveling and they-- they don't have their registration for their car, you have the ability to come forward and show that you actually have the car registered. And that kind of-- that kind of-- of problem solving should occur in the case of concealed carry. If somebody-- if somebody has gone through it and they have a concealed carry permit, they definitely should be able to prove that they have it without getting arrested at the time. So I-- I think again, it's time to wait and-- and-- and pause on this a little bit. I'm-- I'm happy to have the state pay for the permits. I'm happy to have the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

state pay for the training. I just think it's important that we have that training and that-- that we go forward--

HUGHES: It's time, Senator.

PANSING BROOKS: --and have the permits. Thank you so much.

HUGHES: Thank you, Senator Pansing Brooks. Senator Hunt, you're recognized.

HUNT: Thank you, Mr. President. I have a problem when we're so black and white about rights and when we don't understand the difference between natural rights and rights that are given to us by a constitution, which is by a bunch of people, not by God, not by, you know, they aren't God-given rights. Owning a gun is not a God-given right. It's a right that a bunch of Founding Fathers in the 1700s put into a document by choice that we are now in 2022 interpreting to mean that people should be able to own as many deadly semiotic [SIC], any type of weapon that they want and carry them around without a permit and without any training. And I mean, I just don't think that that type of black and white reading is what the Second Amendment is meant to be about. And I'm not an attorney. I'm not a lawyer. I'm not trained in legal scholarship, but I have watched with interest over the course of my life the national gun debate that we have about gun safety and gun control and what degree we're going to expand this right to in our country. And you know, it's-- it's not a natural right. It's not a God-given right. It's a policy choice. And it was a policy choice in 1776 and it is in 2022 here in Nebraska. And it is state to state as you see different states with different types of laws restricting and governing how people can use firearms and country to country. I mean, in all different countries in this world, we see different rules around self-defense and gun ownership and all of these things. I support gun ownership. I understand what I feel to be the spirit of the Second Amendment, and I support it. Just as some of you in here, you might say, I-- I support the spirit of the right to vote. But I still think that we need to have voter ID and we need to make sure that there are certain people who can't vote and we, you know, have to put all these other restrictions on it and make sure that we only allow voting at certain times and certain places in certain ways. We want to put a watermark on the ballot. You know, I'm in the Government, Military and Veterans Affairs Committee, too, and we hear bills every year, more so in the last couple of years because of the-- The Big Lie, you know, the idea that-- that the last election was stolen or whatever and the division we have in our country about that. We've heard more bills than ever restricting the right to vote and

curbing voting rights. And this isn't the kind of argument we ever have around those questions because pretty much everybody agrees that it's not black and white, that there's some wiggle room there and some interpretation that has to be done of the constitution and the intention of the Founding Fathers. And there's definitely historic agreement that the constitution can be interpreted in different ways. When I was, you know, I mentioned I've spent the-- the the biggest part of my life, most of my life, following with interest this gun debate. I remember I was 13 when Columbine happened, and that was the first time, you know, Dylan Klebold and Eric-- I can't remember the other killer's name, but that was the first time I realized that I might not be safe in my school. And school shootings continued to happen, you know, at an increasing level, and-- and now they-- they happen all the time. And no amount of shootings have changed our policy. No amounts of thoughts and prayers have changed the outcomes of these horrible murders.

HUGHES: One minute.

HUNT: Thank you, Mr. President. And so you don't have to be an attorney or a constitutional scholar to have an informed opinion about the regulations that should, could, might, can be placed on our militia, on the people. We have to balance the public health interest of making sure that kids are safe at school, that people can worship safely. We know we have a rising white supremacy problem in this country, and I saw many, not right now, sorry to, like, point at you, but many white supremacists up in the balcony today watching these proceedings because this is something they're very interested in. And I'll speak more about that on my next time. Thank you.

HUGHES: Thank you, Senator Hunt. Senator Erdman, you're recognized.

ERDMAN: Thank you, Mr. President. Good afternoon. Let me start with this. I'll announce the Bridgeport girls' basketball game is going on, and it's halftime. They're ahead 30 to 27, which is good news. This is not such good news, this filibuster that's going on. So we're talking about everybody needs to get a background check before they buy a weapon. I'm sure it's required of the criminals to get a background check. I'm sure they have to do that, right, fingerprinting plus a background check. You can't get a gun without it. I read that on the Internet. It's got to be true. I'm not a lawyer. Senator Hunt says she's not a lawyer, but I did stay at a Holiday Inn Express once, so that might qualify. So we're wasting time. And so what better thing to do, but talk about ridiculous stuff, wasting time. The point is this. Senator Morfeld's not interested in passing AM2297, and they're doing

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

an outstanding job of acting like they're concerned about the citizens and about what happens in protecting people. But I'll give you this. The people in Ukraine today probably wish they had a gun. They have very restrictive gun rights in Ukraine. I'll bet they're passing them out today. And most of those people in this body that are opposed to us having constitutional carry will probably be tickled to death that if in another country, somebody was handed a gun to protect themselves, but not here. I have received numerous emails about this bill, LB773. I have yet to receive one from my district asking me to be opposed. But I have gotten several, more than several, from the districts in the east, 9, 7, some of those districts asking me to be opposed. And Senator Wayne yesterday said we represent the whole state. He's exactly right. But first and foremost, I need to represent those people who sent me here to do the job they expect me to do. So they've expected me to come here and protect their rights, and that's exactly what LB773 does. So I will not vote for AM2297. I'm not overly impressed with AM1757, but understand the necessity for it. So I will vote for AM1757 and LB773, and this will continue, this debate. This filibuster will continue until we get to be eight hours and then we'll see if you have 17. You may not have 17. Senator Brewer may not have 33, but he might. But Senator Brewer has brought this before. He's very committed to doing what he believes to be right. And if I'm going to err, I'm going to err on the side of Senator Brewer. He has done numerous things to promote this country to make us safe. What we need to do is support what he wants to do, what he's trying to do to help Nebraskans. So give up on what you're trying to do here because of some idea you have that people are going to be more dangerous if people have guns.

HUGHES: One minute.

ERDMAN: And you heard Senator Lowe talk this morning about what happened to his wife. When I was treasurer of our local Ag Society, we would collect the gate money on the third and fourth of July. I would have money bags that had \$30,000, \$35,000 cash. When I went to take that to the bank, guess who I took with me. I took a deputy with me because I needed protection. All right? There are a lot of issues that have been brought up today as a smokescreen to try to convince us that what we're doing here is, like Senator Flood said, the sky is going to fall. The sky didn't fall in 2006, and it hasn't fallen since. So we get an opportunity to vote on LB773 tomorrow, I believe.

HUGHES: Time, Senator.

ERDMAN: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

HUGHES: Thank you, Senator Erdman. Senator John Cavanaugh, you're recognized.

J. CAVANAUGH: Thank you, Mr. President. So, well, first off, I said I'd push in so I could come back and report on my opinion on Senator Morfeld's amendment, and I-- I would say I-- I will vote for AM2297. And I think, Senator Erdman, I-- I think that Senator Morfeld is sincere about this amendment. I'm reading it and it seems to reflect a lot of things that have been talked about today. But I just wanted to continue on kind of my line of conversation I've been having about my amendment and what it is. There's been a lot of people who have talked about, I think Senator Pansing Brooks and Senator Morfeld have talked about what the case law is, as to whether or not the state is empowered to make these sorts of restrictions. Whether the state can do that is to this point, pretty clearly settled. That the current law is-- the law is permissible under the federal and the state constitution and has been litigated before. So the question here is not whether or not we can or should-- whether or not we can do this. It's whether we should do this, right? And I had my amendment, which was an attempt at saying, if you think this is something we should do, it should include these sorts of-- this sort of correction, historical correction. And that is an important thing because the argument by so many people here is of why we should take the action in AM1757 and LB773 is because it is a fundamental right, because it is a constitutional right, because it is a derived, divinely derived right. There-- people argue that. They have said that. That is why we should do this. We should trust people. We should do these things and we should empower them under the constitution. The Supreme Court does not agree with that interpretation. I'm-- am one of the people who stood up here many times and said I've disagreed with the Supreme Court before. I will continue to disagree with them in the future on different issues, but I agree with them on some other issues. However, they do articulate the highest court in the land the determination of-- of the constitution. But my point is that if you really do believe the arguments, that it comes with other things. So when-- when we make arguments, not just in this case, but when we make them in other cases there-- we have, you know, a lot of conversation here about unintended consequences or, you know, ancillary consequences or whatever other choice of words people would like to make. But there are all-- those are-- there are unintended consequences. There are intended consequences. But there are things that are related to the issue of which or which we should contemplate and address as we go forward. And my point is, if you want to use the constitution as a sword, you must also afford it as a shield to others, right? You have

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

to-- you-- you can't say, I want these rights just for me and for my friends and for people who I think are-- are good people. You have to think about how it's going to affect everybody else. And so the problem with 17-- AM1757 and if we get to AM2106 is that it limits the protection that-- that is being afforded under the argument that it is a fundamental right. And so if something is a fundamental right, it's a fundamental right for everybody, regardless of where you live, right, regardless of your zip code--

HUGHES: One minute.

J. CAVANAUGH: --your census tract. So if you really think that, I know it is an expediency argument. I understand that. I hear that. I understand that people who-- who actually agree with my amendment voted against it for expediency sake. But the point of a fundamental right is that it is not expedient, is that you protect it even when it's inconvenient. And so you are looking for a convenient way to assert a right. And there are lots of other rights that need protecting as well and that we should not fall on convenience, expediency when we have conversations about those rights. And so that is why I continue to talk about my amendment that has failed and why I will continue probably to talk about it in the future. And I'll bring that bill again in the future, depending on what happens here and I'll maybe bring bills of a similar sort. But again, I will probably vote for-- I will vote for AM2297.

HUGHES: Time, Senator.

J. CAVANAUGH: Thank you.

HUGHES: Thank you, Senator Cavanaugh. Senator Morfeld, you're recognized.

MORFELD: Thank you, Mr. President. Colleagues, I just want to respond to a-- a few comments that were made on the floor. First, I know Senator-- Senator Erdman is a man of many talents, but mind reader I know is not one of them. And I am sincere in AM2297. If that passes, then I will support LB773 and that's sincere. And we can also work on some language that deals with providing free training and allowing for folks to get that training and be able to do it in a way that's more accessible. So unless Senator Erdman magically became a mind reader overnight, which I know is not true, he doesn't know what I'm thinking, he doesn't know what I'm feeling, and so he can keep his thoughts to himself. And he can talk about exactly how he feels and not necessarily how I feel because he doesn't know that. So in any

case, you know, in terms of the Ukraine, the Ukraine actually has more firearms per capita before the war than pretty much, I think, any of the European countries. I wasn't able to-- I wasn't able to get through my research right before I went on the mike, but it's 10 per 100 people, which is a lot fewer than the United States. But there's not very many countries that can compare to the United States in that way. So I'm going to get back and do a little bit more research. But in terms of European countries, the Ukraine has fairly good access to firearms before the war. Now, obviously, the president of Ukraine has issued some emergency orders and decrees given martial law and the state of war there, and they're much more accessible now. You know, in terms of Senator Erdman's comments about helping Nebraskans, you know, I've heard from a lot of Nebraskans on this issue on both sides, quite frankly. I-- I got a few hundred emails opposing this. I got a, well, I probably wasn't targeted, but I got a-- I got a decent amount of emails. I got a lot of emails supporting LB773, but nobody told me, man, I'm having a hard time getting a firearm or, wow, it's tough for me to get that permit. Now, like anything, any time I say something like that on the mike, I'll get a few emails right after I get off the mike and somebody will tell me that. But leading up to this until I said that, I have not heard that as the issue or the cause for this legislation. So I don't think we're really helping Nebraskans here. I think what we're doing is, is just helping with a preference, a preference of Nebraskans not wanting to have to have a permit in order to conceal carry. And there are some folks that were saying a little bit earlier that this doesn't actually help reduce crime. And there's actually some studies that have come out recently because some of these laws have been in place in several different states. One of the studies by Siegel stated that states have-- that have weakened their firearm permitting system has experienced an 11 percent increase in handgun homicide rates. Another study by Donohue and Weber found that states that have weakened their firearm permitting system has experienced a 13 to 15 percent increase in violent crime rates. So there is an emerging body of study, peer reviewed study that has shown that states that weaken their permitting systems do see an increased-- increased crime rates, particularly a violent crime with firearms. And I'm happy to go through those studies a little bit more. In terms of--

HUGHES: One minute.

MORFELD: Thank you, Mr. President. In terms of support, it's pretty overwhelming. And I get that we've got some folks up in the balcony and I get that we have some folks that are pretty passionate and been emailing us. But recent surveys have shown, these representative sample size surveys, have shown that 88 percent of Americans think

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

that you should get a permit before carrying a concealed gun in public. It's pretty overwhelming. There's not very many, many things that you get 88 percent support of. Another study showed that over 80 percent of gun owners, nongun owners, Republicans, Democrats and Independents, agree that high safety standards are critical in issuing concealed carry permits. So I-- I appreciate that there are folks that are passionate about this, like Senator Brewer, folks up in the balcony, folks that have emailed us; but overwhelmingly the general public believe that there should be a permit before carrying a concealed gun in public. And there's many other studies that mirror this as well.

HUGHES: Time, Senator.

MORFELD: Thank you, Mr. President.

HUGHES: Thank you, Senator Morfeld. Senator Halloran, you're recognized.

HALLORAN: Thank you, Mr. President. Oh, if Ukraine would have been able to do what they tried to do in 1990. 1990, Ukraine considered imposing comprehensive gun laws, but they became gridlocked over whether or not private gun ownership would increase crime or improve security. Apparently, there are attorneys in Ukraine as well who will argue and finesse over the words whether or not a fundamental right is a fundamental right. Fast forward to today. The world is captivated by Ukraine's resistance to Russian invasion, especially since much of Ukraine's resistance comes from ordinary citizens taking up arms in defense of their homeland. Ukraine has a fighting chance, in part because it has taken dramatic steps to provide its people with firearms recently, hadn't before the invasion. More than 25,000 automatic rifles and 10 million rounds of ammunition have been distributed to volunteers in Kiev. In the United States, even supporters of draconian gun control are announcing they stand with the brave Ukrainian people in their armed resistance. The glaring contradiction between these positions, supporting gun confiscation on one day and gun distribution the next, seemingly hasn't dawned on many of these ideologues. The contradiction is apparent in action, as well as in words. President Joe Biden rushed to arm Ukrainian stands in contrast, sharp contrast with his desire to disarm ordinary citizens. Canadian Prime Minister Justin Trudeau is another prime example, engaging in tyrannical gun control at home while supplying the Ukrainian resistance with machine guns, pistols, carvings and 1.5 million rounds of ammunition. The European Union shows a similar hostility to self-defense rights of people, even as it gives Ukraine

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

about a half a billion dollars' worth of lethal aid. So it's deja vu all over again for the Ukrainian people. They went through this debate and they got stalemated, gridlocked. In hindsight, I'm sure they wished they had proceeded as they had desired with giving more rights for gun ownership. Arming average citizens hasn't always been the Ukrainian way either. A 2014 report noted that the country had inherited the Soviet civilian gun control system, which provides-- which provides for restrictive gun owner license, licensure and the registration of firearms. Kind of sounds familiar. Hopefully, the events of 2022 have settled that question once and for all. An individual's natural right of self-defense applies equally to the defense of life as to the defense of a nation, and neither individual nor nation is secure without the ability to exercise it. This should never have been a question. As it happens, Ukraine is tragically late to expand legal protection of gun rights. Recently, the president of Ukraine freed prisoners and armed them, freed prisoners and armed them to help defend their nation. Ukraine's parliament acted on an emergency basis just before Russia invaded, a little bit too late. Hopefully, they can persevere. Better late than never, certainly. But imagine if the people of Kiev had been--

HUGHES: One minute.

HALLORAN: --training with their weapons their whole lives. Imagine if they knew them like they'd know the back of their hands instead of quickly learning to handle them during an invasion. The resistance, as well as an example of the world, would be all the more powerful. I understand people are going to say, well, Senator Halloran, this is an invasion on the part of another country. Well, it is an invasion by Russia. Turned into a lot of-- a lot of war crimes that are being committed there now. It's rapidly devolving into a street warfare between Russian citizens in Russian military uniforms fighting against Ukrainians in the streets. And the-- and the-- and the Ukrainians are-- are desperately underarmed to protect themselves. So it is evolved into a circumstance, an example of why civilians need to be armed. And--

HUGHES: Time, Senator.

HALLORAN: Is that time? Thank you.

HUGHES: Thank you, Senator Halloran. Senator Lathrop, you're recognized.

LATHROP: Thank you, Mr. President. I-- I didn't expect to follow Senator Halloran and I was listening, as I do right before I speak, I'm trying to collect my thoughts and I was listening to that. And I would suspect that President Biden recognizes the difference between some reasonable regulation of guns in the United States and Ukraine being at war. I-- I don't know what Ukraine being at war and us giving them guns to defend themselves has to do with this bill. I don't. I-- I-- I listened. OK. That's the argument for this. You know, when this bill came before the committee-- I kind of want to pick up where I left off the last time I spoke. When this bill came before the committee, the-- the folks that came in support said, we don't want to have to pay in order to be able to carry a concealed handgun. They said they'd go to class. We heard today that people are taking more classes with constitutional carry passing in other states. And so to me, it sounds like a money issue. It's a money issue. We don't want to have to pay a fee and we don't have to pay to the state and we don't want to have to pay a fee to the person that's going to teach the class. And trust me, more of us will take the class if we have constitutional carry. And so Senator Morfeld's offered an amendment and I-- this isn't a waste of time amendment. This is an amendment that would say you don't have to pay the fee. Now is it-- are we down to is this about the fact that you have to have a permit at all? That no one should make you have to have a permit to carry a gun in your pocket? And-- and then if that's it, then there's no compromise. There's no way to-- no way to address what we hear are the concerns. And it-- and it's hard to find a place where there's a middle ground; and we have been, as happens from time to time, encouraged by Senator Flood to try to reach some kind of a common ground. And if the-- if the issue is paying these two fees, then let's talk about it. Here's the beginning to that conversation with a-- with an amendment that would say you don't have to pay the fee to the state. And then let's talk about who or how these folks can go through training. I have a legitimate and a real concern for people who have a handgun and haven't been told when to use it, when they can have it in their pocket and when they can't. We are setting people up to become non-law-abiding citizens. They walk into the bank. They walk into a bar. They walk into any one of the prohibitive places that Senator Brandt listed for you. And by the way, I didn't even know those. But are we supposed to know those intuitively? I get that ignorance of the law is not an excuse. That's a well-worn line, and it's very true. But at the same time, when you talk about somebody who's going to have a gun, we watch on TV, you see these stories where people chase down an individual thinking that they are performing a law enforcement

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

function and they shoot him. It's not isolated. It happens. Are we doing those--

HUGHES: One minute.

LATHROP: Pardon me?

HUGHES: One minute.

LATHROP: Thank you. Are we doing those people a favor by not making sure that they know when to shoot and when not to shoot, when to pull the gun out of their pocket and when to leave it there, where they can-- where they can take that gun? The training is an important component of this. I think it, as I listen to the debate, it seems to be the biggest concern that people who are opposed to LB773 have. So Senator Morfeld's AM2297, it is the-- it's the first step towards answering the questions unless, unless it's ultimately simply, you're not going to make me get a permit even if it's free, in which case it's pretty hard to find a middle ground here. And I appreciate the amendment. I don't think it's a filibuster--

HUGHES: Time, Senator.

LATHROP: --waste of time. Thank you.

HUGHES: Thank you, Senator Lathrop. Senator McKinney, you're recognized.

McKINNEY: Thank you, Mr. President. I rise in support of AM2297 because I think we should eliminate the fee for the permits to make it easier for individuals to get the, you know, access to the training and things like that. So I think it's a good amendment. But I also wanted to bring up another point that I forgot about earlier when we were talking about the permit-- purchase permit in Omaha. A lot of individuals that I know that get the Omaha permit get denied and have to appeal because Omaha police deems you possibly as a questionable person, your last name is Johnson or something like that. And because of that, they deny you so you have to appeal it. So just allowing OPD to still screen people is still a problem, which is why I do not like AM2106. But I do like AM2297 because I think it's a good amendment and I think we should eliminate fees and a lot of other fees in this state because I just think we should. And I just want to remind everybody that I'll keep repeating it until, every time I get up that we have to really think about the impact of legislation that we pass in this body and how it will or would impact individuals, no matter if the individual lives in north Omaha or in Scottsbluff somewhere or in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

Norfolk. We should think about how a bill impacts everyone. And that's what I try to do with everything that I introduce is, OK, yes, I want this, and I think this will be great for my district; but how would this affect the rest of the state? And how can I not only be a senator for north Omaha, but be a senator for the state of Nebraska? And in doing that and thinking about that, I thought about AM2106, and I just see it disproportionately affecting people of color, not only in my community, but possibly across the state. But you know, that's the thing and we can't disregard that. I think for a long time our country and our state, we've passed things without fully evaluating how policies, especially dealing with the criminal justice system, law enforcement, guns and things like that, affect communities and people. We have to really start thinking about those things because there's one bill that has annoyed me since it has made it to Final Reading and I'm still waiting for it to show up is that DNA bill because I think it's a horrible bill that would disproportionately affect my community and other communities across the state because I don't think you should have to give your DNA because you got charged with a crime. Convict me, yeah, you could take it, but not based on some premise of you caught me doing something or somebody accused me of something that I'm innocent of, and you're just taking my DNA. And it's stuck in a federal database that nobody knows how you could get it out. And I'm almost sure you can never get it out of the federal database. And that's kind of centered on why we don't need AM2106. Because if we pass LB773 with AM2106, then we pass this DNA bill, I'm going to be upset with a lot of people. And I'm just going to be honest because you're for sure disregarding the concerns of individuals in-- in a state, especially in my community. We stood up and talked about water yesterday and how we need water for western Nebraska and it's vital and other things have come up this year because it's vital for this group or this group or this, these stakeholders. But there's always a but. Somebody stood up and said, oh, with gun rights there's always a but.

HUGHES: One minute.

McKINNEY: When it's with black people or people of color, there's always a but. But we still should probably do this because the Omaha Police Department wants us to do it because we're going to upset them. They upset people every day. They discriminate against people every day. Who thinks about-- it's more people that they discriminate against than are-- are on the police force. Do we not think about them? What about those people? That's what we have to think about. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

HUGHES: Thank you, Senator McKinney. Mr. Clerk for items.

ASSISTANT CLERK: Thank you, Mr. President. Your Committee on Enrollment and Review reports LB717, LB780, LB848, LB925, LB925A, LB964, LB1037, LB1173, and LB1236 all placed on Final Reading. Amendment to be printed: Senator Erdman to LB750. Motions to be printed to LB1013 and LB1014, both from Senator Wayne. And an amendment to LB876 from Senator Geist. That's all I have at this time.

HUGHES: Thank you, Mr. Clerk. Returning to debate. Senator Matt Hansen, you're recognized.

M. HANSEN: Thank you, Mr. President. Based on the queue, this looks like it's going to be my last time to talk today. And so I want to kind of reframe the debate and talk about how the debate over the course of the day has gone. And for the people in this body, the speech isn't necessarily for you, but it's for the public and others watching. I've been here and I've been present, and I've listened to this debate almost the whole day aside from a coffee break. And what we started off at in this morning was that talking about regulations being burdensome and fees are too high. That's what this morning centered on from proponents of this bill. At that point, also probably unjustified, they were criticizing opponents of this bill for not willing to compromise and including really targeting this bill on we're talking about handguns, don't talk about rifles, don't talk about other things. So regulations are burdensome. Fees are high on handguns. And the opponents aren't going to compromise. That's what we heard all morning. We get to Senator Morfeld proposing a sincere amendment that he has drafted based on this morning, talked about and committed to on the microphone, committed to in public. And all of a sudden, we're getting told it's not a sincere amendment and, oh, by the way, what we really need is unlimited stockpiles of guns to fight the Russian Army. Colleagues, that's how the debate has morphed over the day. I mean, talk about moving the goalpost, talk about moving the goalpost. We went from, like, this fee is burdensome and it's hard to find training sometimes, it's hard to make time for training to what if the Russians invade? Like, this is where this debate has been going, and that's where I kind of sometimes jump in and say, as somebody who has concerns with the bill, like, how do I negotiate with that? Like what-- what part-- like what policy lover is-- is-- is-- are we-- are we even on when we start going these ways? Similarly, you know, we're talking about this, and Senator Erdman kind of poked fun at this. And--- but the notion that criminals won't follow-- of course, criminals will follow the law. It was something along those lines of, you know, of course, criminals are going to be going down,

getting the permit, go and do the background check, all that, you know, stayed at a Holiday Inn Express, that whole bit. Colleagues, I know criminals. I know there are people who are going to violate the concealed carry law. I know people who are going to have illegally concealed guns who then commit crimes. The solution to that is to arrest and prosecute those people, not lower burdens for-- or not lower regulations and training to conceal weapons. If you're concerned about illegally concealed weapons causing crimes, why would you want to encourage more concealed weapons? Like, you-- you say that like it-- my logic doesn't make sense. I hear those speeches and I can tell you your logic doesn't make sense to me. Like-- like if we're talking about criminals won't follow the law, let's reduce the barriers so more people can act like the criminals we're scared of by having no regulations, no training, no background check on concealing weapons. Like, that's the logic escapes me is why would we want to go down that? Why wouldn't we want to enforce the gun laws that we do have on the books in order to provide public safety? Colleagues, these are the things that I'm struggling with throughout this debate because I'm approaching this from hearing from my police department, knowing my community, what I think my constituents want from me because we've talked a lot about what our constituents want. I certainly know how my constituents feel about this issue, and I've-- granted there's both-- both sides. But it's not overwhelming, certainly not overwhelming in favor. And so trying to come up with some sort of nuanced policy discussion to figure out how to move forward. And I'm being presented with, like, Joe Biden's going to seize our guns and Russia might invade. Colleagues, how am I supposed to debate that? How am I supposed to figure out what the policy argument on the exact fee and training requirement for concealed carry in Nebraska should be?

HUGHES: One minute.

M. HANSEN: To me, it really seems that proponents are the ones who have no desire in compromise. To me, it really seems that the proponents are the ones that are just kind of spending time talking about empty, unconnected things on the microphone. Like, if you want this to move forward and you want some other people who have concerns about it to vote for it, like, I'm all ears. But starting off by just attacking any sort of amendment as being insincere and questioning the motives and integrity isn't the way to start it, colleagues. Like, if you want a sincere discussion, let's have a sincere discussion. Thank you, Mr. President.

HUGHES: Thank you, Senator Hansen. Senator Walz, you're recognized.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

WALZ: Thank you. I'm going to yield my time to Senator Hunt.

HUGHES: Senator Hunt, 4:55.

HUNT: Thank you, Mr. President. Thank you, Senator Walz, for the time. I was raised in a-- I was raised in Blair, Nebraska, which to me was a small town. I know plenty of you guys are from smaller towns, but to me it was, and our population at the time was about 5,000. So that was the level of that. But being close to Omaha, it wasn't quite an isolated community that you see in other parts of the state in terms of what is a small town and what isn't. But I was raised by a conservative Catholic family. In-- in college, I went to college in my-- in my city, too, and I was the president of the campus conservatives and I was the founder of the Second Amendment Club, the gun club, which I want to tell you about. But I think that conservatism was different back then. I think it was definitely different for my parents than what you see on the far right today. I think it was a little bit more moderate. And I have this memory when I was about 10 years old, my parents took me to see Ken Burns at the Lied Center here in Lincoln. Ken Burns had done a bunch of documentaries and I don't remember the one he had just recently done, but it had something to do with Nebraska. And I don't even think I watched it. It's just my-- my parents were fans, and so they took the kids and all of us went to the Lied Center to watch Ken Burns speak. And I was not-- even-- even when I was a small child, I was a pretty opinionated person. But I think it took me a while to figure out what opinions it was that I wanted to have. But one of the really formative things that happened to me was when I was about 10, and I saw that Ken Burns talk when he came, and one of the things he said was, I just remember him going, I am against fundamentalism of any kind. And I don't know why that moment stood out to me so much, but I remember him up on the stage going, I am against fundamentalism of any kind. And we were talking about religion, but also fundamentalism in politics and government. And-- and that was the context of that comment. But it's something I thought of for the rest of my life until now, being against fundamentalism of any kind, that stuff is not that black and white; that there are shades of gray in every single thing we do. And in everything I do, especially here, I'm always just so much more interested in how things actually affect people and measuring the morality of different policies and the values that we have, not by a psychological exercise or, you know, a mental idea or some like rigid, dogmatic consistency in morals and application of-- of those morals. To me, it always has to do more with how it actually affects people. What are the actual outcomes of that, you know, policy or law or choice or rule or whatever it is? And does it cause harm? I am

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

motivated by the desire to mitigate as much harm as possible. I don't think that we can judge the morality of something based on the consistency of the idea, like when we-- when we look at the constitution and we-- we take everything to its most radical possible interpretation that the Second Amendment means that it is a--

HUGHES: One minute.

HUNT: --God-given right, to use a phrase used by some of you-- thank you, Mr. President-- to own a gun, any kind of gun, because it's about self-defense and everyone has the right to self-defense. The logic for me isn't there. The Founding Fathers could not have conceived of the kinds of weapons that we have for sale today at Walmart, couldn't have conceived of a Walmart, but that these killing machines are so readily available doesn't make it a right. I do think that everybody has the right to self-defense. Absolutely like, don't be weird. Of course they do. What are you supposed to do if someone's coming up to you and trying to harm you or kill you or punch you or shoot you? You should be able to defend yourself, and no one is fighting against that right. There are many, many nonlethal ways that people defend themselves. Every female friend I had in college and growing up had some, you know, brass knuckle thing on their keychain that they can put on and, like, poke somebody.

HUGHES: That's time, Senator, but you're next in the queue so you may continue.

HUNT: Thank you, Mr. President. Or they would have some pepper spray or something, even a Taser. And these are all things that can incapacitate people for self-defense. And so when the argument, you know, something that a lot of people say to me who are critical of my position, they say, well, you think we shouldn't even have self-defense? Like, where in the world did you get that? No, I'm not saying lay down and let someone beat the crap out of you. I'm saying, all I'm saying is like maybe some of the-- the-- the provisions of LB773 that says you can have a big old gun with no training and no permit because it's a God-given right, that is bad policy. That's such bad government. It's laughable to me. There's no logical consistency there at all. And I can't believe we're talking about the Ukraine conflict now as a reason why we need a bill like LB773. Ukraine is an active war zone that was invaded by Donald Trump's best friend, Vladimir Putin, who a lot of you couldn't stop saying good things about a minute ago. Perhaps when Nebraska goes to war with Colorado over the use of the Platte River water, we will be an active war zone, but there's no reason for us to arm people like that. I think that

some people have this fantasy that we're going to be in some kind of civil war. We're going to be in some kind of fight against the government and it's coming from a place of, like, loving that fantasy. And you can buy guns, you can own guns, you can hoard guns. You can do what-- what Senator Brewer does and have a whole basement of guns. And I've-- I've seen pictures of his-- his armory, and it's really impressive. If you own those guns legally and you have training and there's a reasonable, you know, expectation that you're not going to use those guns to hurt anybody or yourself. With the evolution of weapons and self-defense that we've had since 1776, I think that that's today what a well-regulated militia would mean, balanced with the need for public health, balanced with the other factors going on in society of increasing white supremacy, increasing white nationalism, increased access to guns, increased mass shootings and copycat who-- who want to do this too. When the world gets less like that, then we can look at that reality and legislate based on that reality. But that's why I'm not able to come to, like, a black and white place with a policy like this because the reality of the world makes things really gray. All of those dead first graders in Newtown, Connecticut, makes things real gray. All of the dead concert goers at Mandalay Bay in Las Vegas makes things real gray. All of the people who died at the Pulse shooting in Orlando. I would not prevent somebody's right to have a gun, but the regulations that we need to have in place for public safety are something I take very seriously. And people certainly have the right to defend themselves, so that's not it. When I was in college, I was on one. I was really, really, really conservative and I tried to start a club at my college, 70 percent because I wanted to, 30 percent because I wanted to be really provocative, and I knew it would upset people, called the Gun Club, Gun Club. And the board of the college, the board of regents told me I couldn't start the Gun Club because they didn't like the word gun. So then I wrote all these editorials and columns, and I-- I--

HUGHES: One minute.

HUNT: --organized this whole protest at the-- at the campus because they were infringing on our First Amendment rights. And I made it like this huge First Amendment rights thing that they're not letting us say gun. Words don't kill people. You should let us say gun, whatever words we want, whatever. I ended up not winning that and not knowing what else to do. So we found this compromise where I called it The Second Amendment Club, because surely you can't be offended by the phrase Second Amendment. And what we did is we took people around not just the college, but around the whole community, and we took them to a place up in Tekamah and we taught gun safety. We taught hunter

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

safety. And we shot a lot of-- of targets. You know, we just did target shooting and we always turned it into a fun thing. And there was actually one place that we stopped going to because the owners there were encouraging underage people to drink. And I was concerned about the underage drinking.

HUGHES: Time, Senator.

HUNT: Thank you, Mr. President.

HUNT: Thank you, Senator Hunt. Senator Machaela Cavanaugh, you're recognized.

M. CAVANAUGH: Thank you, Mr. President. Good almost evening. Colleagues, I am still in support of Senator Morfeld's amendment, and I'm hoping that we will vote on that and adopt it, as well as an amendment to have the training provided by the state and paid for by the state. I think if we were to do that, that would really create a consistency in what the training was and how it was administered and how it was accessed, which I think is important. I've said before, I'm not a gun person. I'm not opposed to people owning guns. I'm not opposed to people's rights to own guns. I just firmly believe that it is a right, a constitutional right in this country. But that doesn't mean that we can't put in safeguards to make sure that people who are suffering from severe mental illness or have a criminal background, variety of reasons that they shouldn't own a gun, we need to be making sure that we're doing that. We've had shootings in Nebraska. My district has Westside or not Westside, it is Westside, but it also has the Westroads Mall, where the Von Maur shooting was in 2004 and the Von Maur shooting again, I think it was in 2019. Nobody fortunately died in that shooting, just injured. But I mean, that's a problem, and I'm in a white middle class part of Omaha, Nebraska. It's a problem. And so we need to make sure that we're making the appropriate investments in behavioral health, and we need to make sure that we're keeping track of who has a gun. Even if it is their right to have a gun, we should still keep track of that. And if they're going to have it out because they don't have a concealed carry, then we know. And if they're going to conceal carry it, we need to know that too. So I-- I do support the state absorbing that cost. If that's what the rest of the body wants to do, I wouldn't stand in the way of that. Again, I said before that I have other priorities on how to spend money, and I don't know how much it would cost to do that. But I certainly would be open to that being the amendment that we move forward with. So with that, I think I will, if Senator Morfeld would like it, I will yield him the remainder of my time.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

HUGHES: Senator Morfeld, 2:25.

MORFELD: Thank you, Mr. President. Thank you, Senator Cavanaugh. We're getting to the end here today before we begin tomorrow. I-- I just want to note a few different things. First, I want to reiterate that AM2297 is a sincere amendment. If we adopt that amendment, I will support the underlying bill and I will work with Senator Brewer and others to come up with a free training requirement as well that's provided by the state. So when I heard from folks that were proponents of this, they were talking about how the permitting process was burdensome, it got in the way of law-abiding gun owners from being able to exercise their right to carry a concealed weapon, and I think that this remedies a lot of those concerns. Now it doesn't get it all the way, and we've already talked in-depth about why and how it doesn't get us all the way. And I've already talked about the Lincoln Police Union's letter, which is pretty succinct, but I also want to read a little bit from Chief Ewins' letter as well. She also testified in person, as we discussed. After review of this, and this is what she noted in her letter, which is in the record: After review of this proposed legislation and internal conversations of its impact to our organization and community of Lincoln, I oppose LB773 for the following reasons.

HUGHES: One minute.

MORFELD: First, officer and public safety. While Lincoln is generally a safe community, we have experienced our share of gun violence target related to gangs, drugs, and robberies. Allowing persons to freely carry concealed weapons, handguns, shotguns, knives, or rifles will make our job of safeguarding Lincoln more difficult. This bill will allow the criminal element of our communities to carry legally as they have not been-- as they may not be a prohibited person. Without a permitting process and training, you will have individuals who shouldn't be carrying or carrying without the proper skills necessary to assess the situation, determine when lethal force is lawful. This also creates the propensity for mistakes which can result in innocent people being injured, including our officers. There is some more here, but I am limited on my time. I think this goes back to the fact, and we'll talk tomorrow, with some studies that show that people who have the proper and adequate training also have less of a risk to bystanders that are innocent as well. Thank you, Mr. President.

MORFELD: Thank you, Senator Morfeld. Senator Blood, you're recognized.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

BLOOD: Thank you, Mr. President. I just want to, first of all, build on Senator Morfeld's comments about the Ukraine. I think the-- the research that you were missing is that Ukraine ranks 36th in all the world's fourth largest arms dealing nations, and they're actually listed as permissive and not restrictive. So I'm a little confused by what Senator Erdman had to say. In fact, civilians there are licensed to carry concealed handguns, so actually they don't have very strict gun laws there in Ukraine. So I'm a little confused by this. But with that, I would ask that Senator Morfeld yield to some questions. I have concerns about AM2297.

HUGHES: Senator Morfeld, will you yield?

MORFELD: Yes.

BLOOD: So Senator Morfeld, do you remember LB51 that I think it was passed actually out of the Judiciary Committee last year, year before?

MORFELD: I-- yep, it was last year.

BLOOD: So were you aware that they had-- that that bill created really a financial burden for the NLETC?

MORFELD: I'm not aware of that issue at this point in time.

BLOOD: Would you say that's right the NLETC is actually funded by the Nebraska Crime Commission?

MORFELD: I was also not aware of that.

BLOOD: They are.

MORFELD: OK, good.

BLOOD: And so I wanted to share with you that there's been a problem at the training center there. You may have remembered when the Governor gave us our beginning of the year speech that he was going to be putting funds into our training academy. And one of the reasons he had to do that, and I haven't seen the budgets yet, so I don't know if that's actually happened, is because they've been woefully underfunded. And because of that, we have law enforcement, especially in our rural areas, not getting trained, and we've been losing law enforcement at an alarming rate in rural Nebraska. It became a safety issue because they were also told to cut back on spending. So basically what happened was our rural areas got screwed because they'd hire people who would wait to get trained at Grand Island, funded

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

under the Crime Commission, and they'd be-- be put on a waiting list. In fact, Sarpy County had to put together their own training academy because we couldn't wait any longer because we're the fastest growing county in Nebraska. And that means that La Vista, Sarpy County, Bellevue, Papillion, and Douglas County Sheriff's Department, we got together and spent our own money and put together our own training academy. So the concern that I have, Senator Morfeld, is not your idea as to how you want to pay for it. But the concern I have is can they definitely pay for it? Because if the funding falls through yet again, because there's always been promises made that, you know, we're always about, we're backing the blue and it's important to back law enforcement. But for some reason, our executive branch ignored this training center when it came to budgeting and that-- those funds fall under the Nebraska Crime Commission. So if we're going to put this mandate on them, my concern is how the heck they're going to pay for it. Would you say that that's a valid concern, Senator Morfeld?

MORFELD: I'd say, yeah, absolutely. I'd say it's valid and, you know, businesses are booming when it's coming to revenue in the state right now. So I think that we can find some-- some revenue with an A bill, hopefully--

BLOOD: Right.

MORFELD: --if this amendment passes.

BLOOD: And make sure that they also get the money that they need for the training that's been woefully ignored--

MORFELD: Absolutely.

BLOOD: --by the executive branch for a very long time.

MORFELD: Yes.

BLOOD: Thank you, Senator Morfeld. Friends, we pass a lot of bills with good intentions and LB51 is one of those bills and it was one that we had good bipartisan support on. It was one that would not only help law enforcement, but also help the residents of Nebraska.

HUGHES: One minute.

BLOOD: But what we find is sometimes things happen behind closed doors, and although we think we're moving something forward that's going to be funded and it's going to happen, ultimately, it doesn't always happen, and there's unintended consequences. So I want to make

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

sure that if we do push something like this forward, that it truly is going to be funded and not just pretend funded. Thank you, Mr. President.

HUGHES: Thank you, Senator Blood. Senator John Cavanaugh, you're recognized and this is your third opportunity.

J. CAVANAUGH: Oh, thank you, Mr. Pres-- oh, there we go. I was-- just wasn't close enough to the microphone, I guess. So again, I rise in support of AM2297. I do think it addresses a number of the concerns that have been raised by individuals on-- on all sides of this issue, making sure that people have access to the permits and the-- and the training necessary without the burden of cost. And I think that's a good-- good cause endeavor. And so I-- I appreciate Senator Morfeld for bringing that amendment and talking on this topic. I actually wanted to-- to address what Senator Halloran mentioned about Ukraine. I know a few other people have talked about it. It's been in the news. It's come up on this floor before and I watch it on the nightly news every night when I get home. And the-- one of the things you talk about, they're arming their people in Ukraine right now to-- to defend themselves against the Russian Army. And if you watch the stories and you see what's going on, they're arming their people, which is they're-- they're calling the Territorial Defense Force, I think, and volunteers ranging from age 18 up to age 65, men, women. But they're volunteering and then they are still putting them through training. Their country has been invaded by their neighbor, the Russian Army, massive tanks, 40-mile-an-hour-- 40-mile-long convoy of armored vehicles going to Kiev. Kiev, I guess we have now figured out is the way to pronounce it. And they're still taking time when they're putting guns in the hands of these individuals to train them. I saw a video on the news last night or two nights ago where they show the soldiers, the "indoctrinees," signees, volunteers, they hand them a gun, which I'm no gun expert, but it-- it looks like military style assault rifle. They take out the clip, which is one of those curved-style clips, and they run, they jump, they fall down, jump on the ground and they put the clip in and then they have to shoot at a target in front of them. And so they're putting these people through firing training, arms, how to use the arms, medical training. And so they're still taking the time to train these individuals when they are in the middle of an-- an existential threat. People say existential a lot. This is actually the-- the meaning of existential, which means the threat to their very existence. And so they are facing this where some of their major cities have been captured, where they've been surrounded, their capital is being bombarded. They are still taking the time, the effort, and the care to train people in how to use

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 10, 2022

firearms, how to use guns because it is important. It is-- this is an important thing to do. So-- and these are the types of guns that we're not talking about here in concealed carry. These are large guns that are assault weapons. But to say that if the people of Ukraine had a-- a concealed carry, everybody was concealed carrying a handgun and that was going to prevent the Russian Army from invading, I think is-- is probably a misunderstanding of the situation. That the fully armed country of, I think 30-some million of that includes adults, children, elderly, fully armed with small arms, handguns against that level of incursion into their territory is not going to change the outcome.

HUGHES: One minute.

J. CAVANAUGH: They-- they are-- thank you, Mr. President-- that they are being armed with American arms that we are sending over of differing sizes and-- and calibers from those assault-style weapons all the way up to rockets, missiles, things like that. And I think they're asking for planes and armored vehicles as well. And those are the types of responses in that. So this is-- it's a false comparison, of course. And whether or not they were armed or had gun control in that country is not the reason that Russia invaded and is-- and is currently occupying portions of the territory. But the important point is, even in this existential threat situation, they are taking seriously the need to have training in firearms before sending people out to use those firearms. So just an interesting point that Senator Halloran brought up. I just thought it might brought-- bear mentioning as we go forward. Thank you, Mr. President.

HUGHES: Thank you, Senator Cavanaugh. Mr. Clerk for items.

ASSISTANT CLERK: Mr. President, I do. Thank you. Name adds: Senator Wayne to LB795 and to LB1092. And a priority motion. Senator Briese would move to adjourn until Friday, March 11, 2022, at 9:00 a.m.

HUGHES: Colleagues, you've all heard the motion. All those in favor say aye. Opposed nay. We are adjourned.