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BOSN: Welcome to the Judiciary Committee. I am Senator Carolyn Bosn. I represent District 25, which is southeast Lincoln, Lancaster County. I serve as the chair of this committee. The committee will be taking up the bills in the order posted. This is a public hearing, and your opportunity to be part of the legislative process and to express your position on the proposed legislation before us. If you are planning to testify today, please fill out one of the green testifier sheets that are on the table at the back of the room. Be sure to print clearly, and fill it out completely. When it is your turn to come forward to testify, give the testifier sheet to the page or to the committee clerk. If you do not wish to testify, but would like to indicate your position on a bill, there are also yellow sign-in sheets on the back table for each bill. These sheets will be included as an exhibit in the official hearing record. When you come up to testify, please speak clearly into the microphone, telling us your name, and spelling your first and last name to ensure we get an accurate record. Will we-- we will begin each bill hearing today with the introducer's opening statement, followed by proponents of the bill, then opponents, and finally, anyone wishing to speak in the neutral capacity. We will finish with a closing statement by the introducer, if they wish to give one. We will be using a three-minute light system for all testifiers. When you begin your testimony, the light on the table will be green. When the light comes yellow, you will have one minute remaining, and when the light indicates red, you need to wrap up your final thought and stop. Questions from the committee may follow. Also, please note committee members may be coming and going during the hearing, but this has nothing to do with the importance of the bills being heard. It's just part of the process, as many senators have bills to introduce in other committees as well. A few final items to facilitate today's hearing. If you do have handouts or copies of your testimony, please bring up at least 12 copies and give them to the page. Please silence your cell phones. Verbal outbursts, applause or props are not permitted in the hearing room; such behavior may be cause for you to be asked to leave the hearing. Finally, committee procedures for all committees states that written position comments on a bill to be included in the record must be submitted by 8 a.m. the day of the hearing. The only acceptable method of submission is via the Legislature's website at nebraskalegislature.gov. Written position comments-- or, excuse me, letters will be included in the official

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hearing record, but only those testifying in person before the committee will be included on the committee statement. Also, you may submit a position comment for the record, or you may testify in person, but not both. I will now have the committee members with us today introduce themselves, starting with my left.

STORM: Good afternoon. My name is Jared Storm from District 23. That's Saunders County, Colfax County and most of Butler County.

STORER: Good afternoon, and welcome. Senator Tanya Storer, District 43. That would be Dawes, Sheridan, Cherry, Keya Paha, Boyd, Brown, Rock, Garfield, Loup, Blaine and Custer.

DeBOER: Good afternoon, everyone. My name is Wendy DeBoer. I represent District 10 in beautiful northwest Omaha.

McKINNEY: Good afternoon. I'm Terrell McKinney. I represent District 11 in north Omaha.

BOSN: Also assisting the committee-- oh, and to our far left, joining us.

HALLSTROM: And the late Bob Hallstrom. Legislative District 1, southeast Nebraska. Otoe, Pawnee, Nemaha, Richardson and Johnson Counties. Thank you.

BOSN: Also assisting the committee today, to my left is our legal counsel, Denny Vaggalis. And to my far right is our committee clerk, Laurie Vollertsen. Our pages for the committee hearing today are Ruby Kinzie, Alberto Donis, and Ayden Topping, all from UNL. Also, if I could just-- so that we can kind of keep the trains moving on time, can I see a show of hands of how many individuals are here to testify on LR15CA from Senator McKinney. 1, 2, 3, 4, 5, 6, 7, 8, 9. OK. I see about 9 hands. That just helps us so we can tell the next bill introducer when to be here. So with that, we will begin today's hearing with LR15CA, constitutional amendment from Senator McKinney.

McKINNEY: Good afternoon, Chair Bosn and members of the Judiciary Committee. My name is Terrell McKinney, T-e-r-r-e-l-l M-c-K-i-n-n-e-y. I represent District 11 in the Legislature, which is in north Omaha. Today, I'm presenting LR15CA, a constitutional amendment to abolish the death penalty. Currently, Nebraska's on a-- Nebraska is unable to

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carry out executions, leaving us with what amounts to a mental torture penalty. The death penalty is fundamentally inhumane. While some argue it provides closure, closure for victim's families, deters crime, and is more precise with-- and is more precise for modern science, these claims do not solve the underlying problems and leave room for irreparable errors. I'll go through some things. As a society, we must move beyond the outdated and ineffective eye-for-an-eye mindset. Research consistently shows that the death penalty does not deter crime more effectively-- more effectively than life imprisonment. In fact, states with the death penalty have not demonstrated lower crime or murder rates compared to those without. While many Americans view the death penalty as a form of punishment rather than deterrence, life imprisonment without parole offers a more constructive alternative, it forces individuals to confront their actions while leaving room for accountability and, potentially, rehabilitation. This philosophy of, of excessive punishment is outdated and ineffective. It's time to focus on approaches that truly promote justice and safety. The risk of executing innocent individuals highlights the fundamental injustice of the death penalty. Mistakes in our imperfect justice system are irreversible, and defendants, particularly those living in poverty, are often denied adequate legal representation. Since 1973, at least 190 people wrongfully sentenced to death in the, in the, in the U.S. have been exonerated; a stark reminder of the system's fallibility. Moreover, the death penalty disproportionately affects individuals with mental illnesses, brain defects, and those from minority communities. While it's technically unconstitutional to execute someone who is mentally ill, proving such cases remains a significant challenge, further exposing inequities in the application of capital punishment. Capital punishment does not bring victims back; it only perpetuates a cycle of violence. The message is-- the message it sends-- you killed, so we will kill you-- directly contradicts this intent. Using murder as punishment undermines society's value for life. I have to ask, what is justice? As someone who has lost many family members and friends, I know that the pain of-- that-- of those lost just lasts forever, no matter what. This isn't to diminish what happened, but to genuinely ask, "Is justice truly being served, or can it ever be?" We claim to be a pro-life state, but supporting the death penalty, no matter how you try to justify it, is the exact opposite of valuing life. The financial burden of the death penalty far exceeds that of life imprisonment. Executions cost 2 to 5 times more due to

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prolonged legal processes, appeals and required procedures. Furthermore, defendants with lower-cost legal representation are significantly more likely to receive a death sentence, underscoring the inequities inherent in the system. A 2008 study revealed that federal death penalty cases will lower defense costs, resulting in death sentences twice as often as those with higher representation costs. If we truly value tax dollars, we must do more than pay lip service to the issue. This is a matter of fiscal responsibility and justice. In conclusion, the death penalty diminishes the value of life and inflicts societal harm without delivering meaning-- meaningful benefits. It is time for Nebraska to lead the way and end its harmful, ineffective practice like we did in the past-- like my predecessor did in the past-- until it was reversed. With that, I'll answer any questions. Thank you.

BOSN: Thank you, Senator McKinney, Are there any questions from the committee? Seeing none. Thank you.

McKINNEY: Thank you.

BOSN: We'll take our first proponent. Good afternoon.

JOSEPHINE LITWINOWICZ: Good afternoon, Chair Bosn and committee. I'm here on my own accord because I, I know lots of [INAUDIBLE] accounts of survivors of, of their, of their own sons or daughters murdered by someone else. And it does not provide closure a lot of the time. I-- you know, I wasn't-- I think it's just also immoral, because the biblical Jesus wouldn't do this. Only the megachurch, MAGA, NCC-- Nebraska Catholic Council "Jeebus." I call it the-- those are the "Jeebs." And so you, you just don't-- the only person that can take a life-- and your philosophy-- I would believe most of you are Christians-- is that you can't do that. Now, it's amazing how, you know, Senator Chambers, he, he "overrid" it. Over-- he canceled the death penalty, but then Ricketts just had to step in. I think it was more-- I don't know what it was, but it's certainly not Christian, as they claim to be, to actually take a life. There is a degrade or reduction in who we are when we do that. And personally, I would think life in prison-- man, that's a much more whole horrible story. If I was facing that, I would rather the death penalty, and maybe I'm-- I don't know why I'm saying that, but it's true. And it's a neat thing that, you know, Senator-- I'm glad Senators McKinney is bringing it

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up. And so-- like Senator Chambers. And, you know, I, I participated before in handing out stuff. You know, accounts of people that didn't provide closure at all, it just kind of said, oh man, I've made a mistake. And so, you know, I just-- I, I don't see it as "Christianly" viable. I use an adverb, there. I don't know if it's-- but, I mean-- and, and, and I don't mean to lighten-- take away from that, but I-- when Senator Chambers came out of that door, I was off to the side, and someone came up, you know, to interview, and just, after a second he put his hand up. He came over to me. I was bathed in, in, in-- and he says, "Now you're done for." And I think we're all done for if we don't grab this chance, you know-- I don't know. I mean, we're all done for if we're going to kill people. You be-- we got to be better than that. Anyway, thanks a lot.

BOSN: Sir, may, may, may I stop you real quick and have you state and spell your first and last name for us.

JOSEPHINE LITWINOWICZ: Oh, OK. So, Josephine Litwinowicz, J-o-s-e-p-h-i-n-e and L-i-t-w-i-n-o-w-i-c-z. Thank you.

BOSN: Thank you. Any questions for this testifier? Seeing none. Next proponent.

MARYLYN FELION: Good afternoon. My name is Marylyn Felion. It's M-a-r-y-l-y-n F-e-l-i-o-n. I have the honor of being in Senator McKinney's 11th District. I'm sorry he's not here right now. Let me begin by just saying that in the late-- oh, there you are. Hi there. In the late 1980s, I was in Nicaragua with a group called Witness for Peace. And our purpose was to live out in the war zones during the Contra wars, so that we could see what was happening and send back information to our senators and to the state. And, because this was a, a dangerous situation-- we were going to be living out in the war zone-- so we spent some weeks in preparation for this dangerous work. And at one point, we were asked to sit with our fears and see if we could identify our fears, and perhaps know which one was our greatest fear. To my surprise, I discovered that my worst fear was not that I might be killed by the Contra; my worst fear was that I might have to stand by helplessly and watch another human being be killed. Now, that never happened in this little war-torn country in Central America; it happened in Nebraska. It happened in Lincoln, Nebraska in 1997 when I accompanied Robert Williams to his death in the electric chair. Now, I

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could tell you lots of stories about that experience. One of the things that comes to mind every time I think about that was there were six big guards who led us down the hall-- military fashion, hup, two, three, four, down to the elevator. At the execution chamber, they guided Robert inside, and I had to go another way to go back up the stairs and around to the witness room. And I had to pass those six big guards, and they were sobbing. Those guards were sobbing. Those are-- there are awful effects on those who have to carry out the death penalty. They were not hired to kill. Strapping down a defenseless human being and killing that person was not a part of their resume. This is not in our nature. We kill for food. We kill in war, awful as that is. But that is so different than taking a perfectly alive human being and strapping that person down, rendering him defenseless. I mean, even in ancient Rome, they allowed two people to fight each other. They didn't strap one down when they were in the Coliseum. This is murder most heinous. You understand, when somebody is being tried for murder, there are certain things that make the murder worse or worse. And, if it is premeditated, right? If it's cold blooded, if it's ritualistic, then that is called murder most heinous.

BOSN: I'm going to have to ask you to wrap it up.

MARYLYN FELION: OK.

BOSN: Can you give us your final thought?

MARYLYN FELION: OK. Let me quickly say that studies are done-- studies have been done showing that the effects of the participants in these state order killings shows how deep and long-lived the effects are of PTSD, night terrors, alcoholism, divorce. Not just the guards, but the wardens.

BOSN: All right. Let's, let's see if there's any questions from the committee members, OK? Just since-- we have a three-minute light system,--

MARYLYN FELION: OK. All right.

BOSN: So-- a lot of people waiting.

MARYLYN FELION: OK.

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BOSN: Are there any questions from the committee? All right. Thank you for being here.

MARYLYN FELION: You're welcome.

BOSN: Next proponent.

CHRISTY HARGESHEIMER: Good afternoon. My name is Christy, C-h-r-i-s-t-y; Hargesheimer, H-a-r-g-e-s-h-e-i-m-e-r. And that probably gives me a lot less time now. I'm speaking on behalf of Amnesty International, which opposes the death penalty as the ultimate affront to human rights, violating the basic right to life. In Nebraska, it's marked by a gross bias, bias and arbitrariness, most notably by geographical disparities, because not all counties are able to afford the costs of a capital trial. There are many arguments about-- that Amnesty presents against the practice of the death penalty, such as possibility of executing an innocent person, racial and economic disparities, lack of deterrence, economic gain, political gain, et cetera. There are arguments that are moral and others that are of a more practical nature, and I'm going to focus mainly on the fiscal aspect of the death penalty. When this Legislature voted to abolish the death penalty ten years ago, the leading arguments were made by the more conservative wing of this body. The main reason they abolished it was that it was unsustainable at a time when money was needed for schools and there was a call for lower property taxes. Now, does that sound familiar to any of you? In 2016, a study by Creighton University economist Ernie Goss found that the death penalty was a, a-- cost the state \$14.6 million a year. At the time, there had not been an execution for 19 years. Costs were higher than those for a life sentence at every stage of the judicial and correctional process. Legal defense, lengthy jury selection and trials, hiring expensive witnesses, incarceration, appeals all added to the immense cost. Just since 2015, without taking an account-- into account inflation, based on Goss's research, the cost of maintaining the death penalty would add up to \$146 million during that period of time. What else could we use those dollars for? In this week's newspapers, we learned that a 340-- or \$432 million projected budget shortfall will lead to reductions for University of Nebraska, some state agencies, and various economic propose-- initiative proposals. Yet, we can spend millions on a policy that yields us nothing. The money now wasted on a failed policy might be used instead to enhance educational

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opportunities. In fact, shifting the funding from the death penalty to education may actually prove to be a preventative measure that will help to reduce crime in general. In addition, the new Chief Justice of the Nebraska Supreme Court is asking for increased funding to implement review of the current system. Existing funds will soon be exhausted. Senator Bosn has additional-- has said that additional funds are a high bar to overcome. Additional funds certainly won't be the result of lowering property taxes. Is that correct? So here's my suggestion. Enshrine death penalty abolition in your state constitution, and use the resulting extra funds to help fulfill some of those needs that will benefit all Nebraskans. Thank you. Are there any questions?

BOSN: Any questions of this testifier? Seeing none. Thank you for being here.

CHRISTY HARGESHEIMER: Thank you.

BOSN: Next proponent. Good afternoon.

ALEX M. HOUCHIN: Good afternoon, Senators. My name is Alex M. Houchin. That's A-l-e-x M H-o-u-c-h-i-n, and I'm here to offer comments both on my own behalf and as the only staff member of the nonpartisan nonprofit Nebraskans for Alternatives to the Death Penalty. Today, we're here in support of Senator McKinney's LR15CA to give voters another chance to reckon with the deeply important question about whether the state should have the power to kill its own citizens, and how that affects who we are as a people and as a greater community. Excuse me. It's always a challenge to squeeze my personal and professional thoughts on capital punishment into a three-minute sprint like this. Our organization represents a broad coalition of Nebraskans from all walks of life, all legislative and congressional districts, and from all points across the political spectrum who have reached the conclusion that the death penalty should be abolished. I could probably talk to any of you far into the night about all the different paths folks take to reach this conclusion: faith, mercy, limited government, fiscal responsibility, inequality, transparency, accountability, victims' families, cruelty, the false equivalence between justice and vengeance. The list goes on. And I've found that the more people I talked to, the longer the list gets. You'll hear from plenty of Nebraskans, both at today's hearing and in the

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submitted comments who each took their own path to this conclusion. So, in an effort to avoid repeating too many of them, I'll simply offer some information. As a previous testifier noted, the 2015 study from Creighton University found that once all associated costs are taken into account and adjusted for inflation, having capital punishment on the books in our state costs taxpayers over \$19 million per year-- in 2025 dollars-- above and beyond the cost of incarcerating people for life without parole. That's \$19 million every year, whether we use it or not. And since we've had the death penalty on the books for 48 of the last 49 years, that works out to a grand total of well over \$900 million just to kill four people. I bet you can all think of better ways to spend that money. The handout I've brought for committee members today is a national fact sheet published every year by the nonpartisan Death Penalty Information Center. Aside from illustrating the glaring disparities in application of the death penalty across demographics and socioeconomic backgrounds, as well as the uneven distribution of its use in different regions of the country, the back page also shows that public opinion on the death penalty versus a sentence of life without parole has been shifting rapidly since the beginning of the century. 11 of the 23 states without capital punishment have abolished it since the year 2000, with 4 in the last 5 years alone. We ask that you support this LR through final passage, and let voters decide whether Nebraska should rejoin that list. Thank you for listening, and I'm happy to try answering any questions you might have.

BOSN: Any questions for this testifier? Seeing none. Thank you for being here. Next proponent. Good afternoon.

JASON WITMER: Afternoon. Thank you, Chair Bosn and Judiciary Committee. My name is Jason Witmer, J-a-s-o-n W-i-t-m-e-r, and I am here on behalf of ACLU of Nebraska in support of LR15CA. The American Civil Liberties Union believes the death penalty inherently violates the constitutional ban against cruel and unusual punishment and the guarantee of due process of law, and equal protection under the law. Capital punishment is an intolerable denial of civil liberties, and is inconsistent with the fundamental values of our democratic system. The death penalty is uncivilized in theory, unfair, and inequitably practiced. Nebraska remains one of 27 states that still have the death penalty. However, public support for capital punishment is at a five-decade low, with more than half of young adults opposing it.

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Research has found no credible evidence to support the claim that death penalty has any deterrent effect on crime. However, what is clear is the death penalty is applied significantly in disparities. I will give a few. It disproportionately impacts the poor who cannot afford adequate counsel. African-Americans make up 41% of those on death row and 34% executed, despite only representing 13% of the U.S. population. Before the Supreme Court banned such executions, at least 44 individuals with individual-- with intellectual disabilities and 366 people who were children at the time of their crime were executed. Mental health experts estimate that at least 20% of individuals on death row today suffer from serious mental health concerns. For every eight people executed, at least one was exonerated from death row. The fact that we maintained this system shows that we are no exception. Fair application of the death penalty does not exist in this country. Neither placing someone on death row nor executing them has true deterrence to crime. So, with that being said, LR15CA gives the voters the opportunity to choose whether we keep this punishment. So, we'd like to-- what-- we'd like to thank Senator McKennedy [SIC] for bringing this bill, and we urge the committee to advance the measure. With that, I'll take any questions, if--

BOSN: Thank you for your testimony. Any questions of this testifier?

JASON WITMER: Thank you.

BOSN: Thank you for being here. Next proponent.

TOM VENZOR: Good afternoon, Chairwoman Bosn and members of the Judiciary Committee. My name is Tom Venzor, T-o-m V-e-n-z-o-r. I'm the executive director of the Nebraska Catholic Conference. In 2018, Pope Francis issued an update in the section of the catechism on the Catholic Church on the death penalty. And, consistent with prior teaching, this update more vigorously calls for an end to the death penalty, and it states the following: recourse to the death penalty on the part of legitimate authority, following a fair trial, was long considered an appropriate response to the gravity of certain crimes and an acceptable, albeit extreme, means of safeguarding the common good. Today, however, there is an increasing awareness that the dignity of the human person is not lost even after the commission of very serious crimes. In addition, a new understanding has emerged of the significance of penal sanctions imposed by the state. Lastly, more

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effective systems of detention have been developed which ensure the due protection of citizens but, at the same time, do not definitively deprive the guilty of the possibility of redemption. Consequently, the Church teaches, in light of the gospel, that the death penalty is inadmiss-- inadmissible because it is an attack on the inviolability and dignity of the human person, and the church works with determination for its abolition worldwide. But not only are those sort of the moral, kind of theological principles for the church's position, but we also believe that this is a reasonable measure by which, you know, all of us can agree-- whether we're people of faith or not-- on the abolition. That next paragraph at the end is more kind of a lot of the arguments you've heard so far, so I'll skip to that first paragraph on the second page. In our modern and technologically-sophisticated age, means of punishment other than the death penalty are available and adequate for maintaining the public safety. And furthermore, in a culture that too frequently resorts to death and violence as a response to social problems, such as we see with abortion and doctor-prescribed suicide, the use of the death penalty has the potential of contributing to the growing disrespect for the dignity and value of human life. And while many have valid and understandable concerns about the frequency of violence and heinous crimes in our communities, policymakers and society as a whole need to do all that we can to deter and respond to the violence that undermines a stable society. And the death penalty, however, ought not be used as a sort of cure-all solution for the systemic issues that we see throughout our communities. Additionally, while many across the state desire to use the death penalty with a sound sense of retributive justice, it should be noted that there are also those who seek to use the death penalty as a matter of revenge. While just re-- just retribution is a legitimate desire, actions taken under the veil of vengeance are their own form of violence, and we must avoid those, and they must be condemned. So, we would urge the Judiciary Committee to advance LR15CA to General File, and we thank Senator McKinney for bringing this forward. And I'll take any questions.

BOSN: Thank you for your testimony. Any questions? Thank you.

TOM VENZOR: All right. Thank you.

BOSN: Next proponent. Good afternoon.

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TAYLOR GIVENS-DUNN: Good afternoon. Good afternoon, members of the Judiciary Committee. My name is Taylor Givens-Dunn, T-a-y-l-o-r G-i-v-e-n-s-D-u-n-n, and I'm the policy and power-building manager at I Be Black Girl. I Be Black Girl serves as a collective for black women, femmes, and girls to actualize their full potential to authentically be through autonomy, abundance and liberation. We're the only reproductive justice organization in Nebraska that centers black women, femmes, and girls, and we would like to express our support of LR15CA. At I Be Black Girl, our work is grounded in the understanding that reproductive justice is inseparable from broader systemic justice. The death penalty is an extension of the same violent systems that deny black communities access to equitable health care, economic security and safety. It is a tool of oppression that disproportionately targets people of color, particularly those who are poor and marginalized. If we are truly to seek justice in the state of Nebraska, we must dismantle these systems rather than reinforce them. Justice demands that every person has the right to live and thrive, free from state-sanctioned violence. The death penalty is a direct contradiction to this principle. It is not a deterrent to crime, nor does it provide true justice to survivors of violence. Instead, it perpetuates cycles of trauma and injustice, continuing a long legacy of state violence that stretches from slavery to mass incarceration. Resources spent on expensive executions could instead be invested in community-based solutions that promote safety, healing, and true justice; solutions that prioritize the well-being of families rather than their destruction. Moreover, the death penalty is a reverse-- is an irreversible punishment that has led to the execution of innocent individuals. Studies have shown that racial bias, inadequate legal representation and prosecutorial misconduct contribute to those wrongful convictions. By abolishing the death penalty, Nebraska would be acknowledging the fallibility of the criminal justice system and ensuring that no person is wrongly convicted or executed in our state. Sorry, executed. The financial burden of the death penalty is another critical factor to consider. Maintaining capital punishment is significantly more expensive than sentencing individuals to life imprisonment without parole. The costs associated with prolonged trials, appeals, and incarceration on death row puts an unnecessary strain on Nebraska's budget resources that could instead be allocated to the programs that strengthen communities and reduce violence at its roots. Nebraska now has the opportunity to take a stand against a

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system that is unjust, costly and morally indefensible by passing-- or, by advancing LR15CA. We affirm the dignity of all people, and we must take a step toward a future rooted in care, not punishment. We'd like to thank Senator McKinney for his commitment to justice, and we urge this committee to advance LR15CA, and commit to building a justice system in this state that honors life rather than taking it away. I'm happy to answer any questions.

BOSN: Any questions for this testifier? Thank you very much for being here.

TAYLOR GIVENS-DUNN: Thank you.

BOSN: Next proponent. We'll move on to opponents-- ope. Oh, that's OK. You're all right.

BENJAMIN BUGENHAGEN: Good afternoon. My name is Benjamin Bugenhagen, B-e-n-j-a-m-i-n B-u-g-e-n-h-a-g-e-n. I'm speaking for myself in support of the resolution. I hold it true that every human being has inherent dignity, and that the very fact that we have life at all is, in and of itself, a miracle. I don't think it's possible to have a system built by humans that could adequately separate people into two categories: those who deserve life, and those who do not. It's impossible to place a value on the life of a person; it doesn't matter how inhuman they act. And beyond the system itself, the death penalty is notoriously inconsistent, legally muddy, prone to botched attempts, conducted by poorly trained or financially incentivized Justice Department employees. Last year, Emmanuel Littlejohn was put to death after two of his convicting jurors explicitly swore they did not wish for the death penalty, and after the Oklahoma Pardon and Parole Board voted to spare his life. But the governor, who has a reputation to uphold and campaign promises to keep, stated that, as a law-and-order governor, the execution would still be carried out. Now, Emanuel is dead. That's anecdotal, but my point is that the system is very obviously vulnerable to the machinations of political entities, who you all very well know must weigh the personal and political quons-- consequences of every action they take. A single death penalty in Nebraska costs upwards of \$1.5 million more than a sentence of life without parole. For a state that is so desperate to ensure solvency and responsible government-- government finances, we spend a lot of money killing people. And what reason even is there for a death

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penalty in the first place? To me, capital punishment in a stable, healthy republic is entirely unnecessary. These offenders are already imprisoned for the remainder of their natural lives, and modern prison design makes escape very, very unlikely, and increasingly unlikely with internal violence. So, if the taking of a life is not necessary to preserve the, the protection of the public, is it rational? Is it moral to do so anyway? And though for many families, it would seem like justice to end the life of someone who has undoubtedly caused tremendous and unforgivable loss, we can't train our society to heal loss by deciding who is and is not worthy of life. The abolition of the death penalty is a necessary change for a modern ethical state. Capital punishment of any kind is a blight on any developed society morally, economically, and politically. What is to be lost by affording the people of Nebraska the dignity of getting to decide for ourselves whether or not we still require justice to be served by the ending of another life? I'm happy to take any questions from the committee.

BOSN: Thank you very much for your testimony. Any questions? Seeing none. Next proponent. All right. Opponents. OK.

GRACE JACOBSON: I got here just in time. I haven't got my sheet fully filled out, can I give it to you? Hello, my name is Grace Jacobson, spelled G-r-a-c-e J-a-c-o-b-s-o-n, and I'm here to speak as a proponent for this bill. I didn't get to hear any other arguments. My main argument is we cannot guarantee that every single person who is sentenced to the death penalty truly is guilty. We cannot guarantee that they have not had some sort of circumstance-- just like the previous speaker mentioned-- of a political vendetta or goals that lead to an unjust killing of an innocent person. We already have systems in place to punish those who do commit heinous acts. That's called life in prison without parole. I just-- personally, I cannot agree with killing-- the risk of killing an innocent. And that's, that's my main point. Like, we're a civilized society. We're-- it's 2025. We shouldn't be doing this. And-- yeah. Short and sweet.

BOSN: Any questions for this testifier? Thank you for being here. Next-- OK, last call.

***TANYA ENCALADA CRUZ:** I support the amendment.

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BOSN: All right. Now we're moving to opponents. Are there any opponents of LR15CA? Anyone wishing to testify in the neutral capacity? While Senator McKinney is making his way up to close, I will note for the record we had 92 proponent comments submitted, 14 opponent comments submitted, and 1 neutral comment submitted for the hearing record. Thank you, Senator McKinney.

McKINNEY: Thank you. Sounds like we should be taking this to the voters. Thank you. Thank you for everybody who came to testify, and thank you to the committee for listening. I adjusted my close, and I just have a few points to make. Number one, I don't think the government, government should be in the business of taking lives, especially with the risk of killing someone innocent. There's too many examples of innocent individuals that have been sentenced to death being exonerated for us to say, "hold up, let's get rid of this." Two, the cost to the taxpayers. It's more expensive to sentence somebody to death than life imprisonment. We always talk about, you know, looking out for the taxpayers, you know, making sure we spend correctly and value taxpayer dollars. I think that the longer we keep the death penalty on the books, the more we are not honoring that. Three, the death penalty does not deter, deter crime. I think we need to spend our resources more efficiently on basic needs, making sure we spend more resources on prevention and rehabilitation to make sure people are not committing crimes and make sure people are not going back to prison. That's where our dollars should be going. It shouldn't be going to build new prisons that are going to be overcrowded the day they open up. Four, as I stated, just the risk of error. I think that should outweigh this policy completely. And in, in the last five years, there's, there's been three states that, that have abolished the death penalty: the state of Virginia, Washington state, and the state of Delaware. And I would be remiss without stating this data-- in the United States, black people, mostly black males, are disproportionately represented as far as those that are sentenced to death. Although black people make up 13-14% of the US population, black people make up 40% of the individuals sentenced to death in this, in this country. In the state of Nebraska, black individuals and Latino individuals are disproportionately represented in our death row populations. This is something that we really need to look at. I hope that the committee really considers this, and I hope we can get this on the ballot and let the voters decide. I know this was, you know,

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reversed, but a lot of things have happened since then. And I don't need to go all day about what has happened since then, but I think this is something we should truly consider, because I think it's something that is needed and something that needs to change. So with that, I'll take any questions. Thank you.

BOSN: Thank you, Senator McKinney. Any questions? Seeing none. Thank you.

McKINNEY: Thank you.

BOSN: Before we get started, and while Senator Lippincott is coming up for LB432, can I see a show of hands of how many people plan to testify in some capacity on that bill? 1, 2, 3, 4, 5, 6. OK. Thank you very much. Welcome, Senator Lippincott.

ALEX M. HOUCHIN: Never be. You know, listen.

BOSN: Just the first one. It's no question for.

ALEX M. HOUCHIN: Me to prove it. Is good news for you, too.

BOSN: Welcome. Go ahead. Yeah.

LIPPINCOTT: Hello, Chairman Bosn and the Judiciary Committee. My name is, is Loren Lippincott. That's L-o-r-e-n L-i-p-p-i-n-c-o-t-t, and I am here representing District number 34. LB432 is a bill to add nitrogen hypoxia to the allowable methods for execution, and I want to speak about this with the utmost dignity and care while still presenting facts to this committee, as I know this subject can be divisive. And I'm not here to cast judgment on anyone, and all the voices that follow behind me are valid and should be heard. This committee knows the history of the death penalty here in Nebraska, and I'm not here to debate its, its existence. I am here to give us another option to use. Nitrogen hypoxia is another option, and currently, nitrogen can be used for the death penalty in the states of Alabama, Oklahoma, Mississippi, and Missouri, and it's also been held-- heard in Ohio and Louisiana legislatures at this time. Now, what is nitrogen hypoxia? The clinical definition of hypoxia is simply low levels of oxygen in your body tissues. Now, in my time as an Air Force pilot, we had training where we would undergo hypoxia symptoms in a controlled environment in an altitude chamber, so we could

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recognize our own personal hypoxia symptoms if an event were to take place on an aircraft in an emergency. Now, you may remember Payne Stewart, the famous golfer, and in October of 1999, his airplane-- his jet-- left Love Airfield in Dallas, Texas at 9:19 a.m., and his last recorded acknowledgment was eight minutes later, at 9:27 a.m. The flight continued without acknowledgment, flying on autopilot until it crashed at 1:13 p.m. that afternoon in Mina, South Dakota. It had reached an altitude of 46,400 feet. The National Transportation Safety Board concluded that the airplane failed to pressurize, which would cause hypoxia symptoms, which is why the airplane simply stopped replying to air traffic control: they fell asleep. Your time of useful consciousness at 40,000 feet is about 15 seconds; it decreases to 10 seconds at 50,000 feet. Now, Alabama used nitrogen for the first time in January of 2024-- about two years ago-- for Kenneth Smith, and a second time for Alan Miller in September of 2024. I have a letter from Alabama Attorney General about the execution of Kenneth Eugene Smith, and I would encourage you to look at that. We oftentimes receive a lot of data during these committee hearings, but that letter is actually worth reading. Nebraska has had 11 men on death row at this time, and Nebraska has used the death penalty four times since 1977. There is documentation before you that suicides with nitrogen or helium gases are painless. Nitrogen is painless. It is peaceful, and it's plentiful. Again, this is not about whether the death penalty should exist, but about the ethic in which we treat those who are sentenced to death. And the best and most humane way is painless, which I believe, with resounding medical support, to be beth-- death by hypoxia. I'll take any questions.

BOSN: Thank you. Any questions for this testifier? Senator McKinney.

McKINNEY: Thank you, Chair Bosn. Thank you, Senator Lippincott. I saw, maybe like a week or so ago, President Trump signed an order about allowing states to get the drugs for lethal injections. Do you think this is needed because of that?

LIPPINCOTT: Did you say-- what about drugs?

McKINNEY: President Trump, I think he might have sign-- he, he-- he's done a bunch of things over the last couple of weeks, but I think he signed an executive order saying states could use drugs for lethal injection. Because of that, do you think this bill is needed?

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LIPPINCOTT: I'm not knowledgeable about what Trump did on that. Again, I would just restate that I believe that nitrogen to be the most humane. It's, it's painless. As I stated in my testimony, just during pilot training, we did encounter hypoxia symptoms, and-- obviously, it was an enclosed environment to ensure that none of us did pass out, but you lose consciousness very quickly. And the reason why they wanted to train us in this is because you're hypoxia systems-- symptoms are very insidious. You won't even know that you're losing your awareness. You just fall asleep. As a matter of fact, I'm sure many of you have seen the Top Gun movie where the pilot falls asleep because of G-loss of consciousness. You know, they pull Gs, they go to sleep. I had a couple of students that actually lost consciousness while I was flying with them, because they pulled too many Gs. The point in that is this: they-- you can lose consciousness very quickly if your brain does not receive adequate oxygen. And that, in essence, is what this is. It would-- you would be breathing nitrogen, and of course, we know that right now, we're breathing 78% nitrogen because that's here in the atmosphere around us. But when the prisoner would be under a gas mask, he's just breathing nitrogen but no oxygen. So very quickly, your mind will be starved of oxygen, you'll go to sleep, and then shortly thereafter, death would follow.

McKINNEY: Do you have any medical data or scientific data to say that this isn't torture, or this, like, isn't something that-- like, people won't experience some type of harm? Do you have any data that you could share with the committee?

LIPPINCOTT: I, I believe in your handouts, there is some, some medical reports that do indicate that. Yes, sir.

McKINNEY: All right. And the last question, because I, I might have some later, but I just--

LIPPINCOTT: That's OK.

McKINNEY: --ask this. Just-- do you think this raises an Eighth Amendment question about-- which prohibits cruel and unusual punishment?

LIPPINCOTT: You know, a lot of people will talk about the very first person, Eugene Smith [SIC], that he was put to death with nitrogen in

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Alabama two years ago. We all remember that. You know, and he did do some shaking, and all that. But if you, if you remember-- and that-- the letter from the attorney general of Alabama does address that specifically. But if you remember, Eugene Smith [SIC] initially, two years prior to the nitrogen that he-- would-- was used to put him to sleep, he did experience the lethal injection. I don't know if you remember that or not, but that was not successful with him. So, I say that to say that Eugene Smith [SIC], he did resist the nitrogen thing and he did, in fact, hold his breath for a long time. So, he was physically fighting it, and I do believe that that's what caused some of his symptoms that he experienced. And people that were present at the time, they do state that in their testimony.

McKINNEY: All right. Thank you.

LIPPINCOTT: So the-- your, your question was, "will this cause pain?" And, sir, I do believe that this is the most painless and peaceful method. It's humane. I truly believe that.

McKINNEY: Thank you.

LIPPINCOTT: Thank you, sir.

BOSN: Any other questions? Are you staying to close?

LIPPINCOTT: I will.

BOSN: Thank you.

LIPPINCOTT: Thank you.

BOSN: First proponent. Are there any proponents? All right. We'll take our first opponent.

JASON WITMER: Thank you, Chairs Bosn and Judiciary Committee. My name is Jason Witmer, J-a-s-o-n W-i-t-m-e-r, and I am here on behalf of the ACLU of Nebraska in opposition of LB432. As said, nitrogen hypoxia has been described as a painless way to take a human life. Nitrogen compromises of 78% of the air, as was said, can silently displace our life-sustaining oxygen, leading to hypoxia where our body's cells and organs begin to asphyxiate. System-- symptoms include shortness of breath, dizziness, unconsciousness, organ failure, and eventually,

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death. Through the act of intentionally administering this odorless gas through a face mask, it is easy to imagine the condemned feeling might-- mildly distressed before falling unconscious and peacefully passing away. However, we don't have to use our imagination because, again, as was presented, last year, Alabama, in 2024, had used nitrogen hypoxia to execute Kenneth Smith, who was convicted of a 1988 murder. This was the first time we seen this execution method used in-- on a human being in America, and there were witnesses. Besides the designated state officials-- which I believe you got a letter from one-- those describing this unique execution gave a consistent depiction that it was anything but peaceful, and here is a portion of the spiritual advisor, Reverend Hood's statement. And I'll quote: I think that anybody that witnessed this knows that we didn't see someone go unconscious in 2 or 3 seconds. We didn't see someone go unconscious in 30 seconds. What we saw was minutes of someone struggling for their life. What we saw of minutes-- what we saw, minutes of someone heaving back and forth. We saw spit. We saw all sorts of stuff from the mouth develop on the mask. We saw the mask tied to a gurney and him ripping his head forward over and over and over again. We saw correctional officials in the room who were visibly surprised at how badly things went. This was Reverend Hood who said this, so you can look this up, as well as-- there was at least 5 media representatives there, so they have descriptions as well. But I will end with Kenneth Smith made a potent-- the, the condemned made a potent statement in his last statement that I think is very relevant. And what he had said was, quote: tonight, Alabama causes humanity to take a step backwards. Unquote. The death penalty, including the use of nitrogen hypoxia, does not honor victims. It does not heal the families. And it is not a legacy that Nebraska deserves. And for those reasons, the ACLU opposes LB40-- 43-- LB432, and I respectfully ask this committee to do the same. Thank you.

BOSN: Thank you for your testimony. Any questions of this testifier? Thank you for being here.

JASON WITMER: Thank you.

BOSN: Next opponent.

SPIKE EICKHOLT: Good afternoon, Chair Bosn, and members of the committee. My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t. I'm

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appearing on behalf of Nebraskans for Alternatives to the Death Penalty, and also for the Nebraskans-- the Criminal Defense Attorneys Association. We are opposed to the bill, and I did visit with Senator Lippincott last week about our opposition and explain why we were opposed. I want to echo something that Mr. Witmer just said, and that is the-- we don't accept the assertion that Senator Lippincott has made that the experimental execution that Alabama did was humane, was painless. The news articles show that the execution itself took 22 minutes from the time the curtain was opened until it was closed. That witnesses, including members of the press, noted that for at least two minutes, Mr. Smith appeared to shake and, and writhe on the gurney, sometimes pulling against the restraints in an attempt to stop it. So, I don't know that it's humane or any-- painless or anything like that. But really, whether it is or not, we would submit kind of misses the point. The problem with the death penalty is not the method in which is carried out; the problem with the death penalty is all the reasons that you heard before. It's arbitrariness. It's disparate impact on people of color and the poor. It's selective use by prosecutorial decisions, and all of the different things that go along with what make the death penalty cruel and arbitrary, and shouldn't be used in this state. You know, when-- I explained this to Senator Lippincott, when you hear the proponent argument for this bill, that the argument goes along like this, "It should be humane, it should be peaceful, it should be kind of dressed up in a medical-type procedure." Why? It's punishment. You know, you don't hear that argument when we talk about prisons being nice; minimum square feet, good TV, comfortable beds. All those things, no one, no one wants to make that argument, no one to buy that argument. That's a method of carrying out a punishment. Why is it different with the death penalty? I would submit because the proponents really aren't comfortable with the death penalty. What they really are saying, what they really are expressing is a desire that people who do these crimes just go away, stay away from us, and don't come back. And we have that alternative with our prison system, as Mr. Venzor said earlier on the earlier proposal. I would urge the committee to not advance this bill, and I'll answer any questions if anyone has any.

BOSN: Thank you. Any questions for this testifier? Thank you for being here. Next opponent. Welcome back.

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ALEX M. HOUCHIN: Thank you very much. Hello again, committee members. My name, once more for the record, is Alex M. Houchin. That's A-l-e-x M H-o-u-c-h-i-n, and I'm here both on my own behalf as well as in my, my capacity as the sole staff member of the nonpartisan, nonprofit organization Nebraskans for Alternatives to the Death Penalty. Today, we're asking the committee to once again reject Senator Lippincott's bill to include gas suffocation as a legal method for killing people. First, I'd like to point out that, due to serious ethical concerns, euthanasia by nitrogen suffocation for non-human mammals has been widely ruled out by veterinary associations in the US and in Europe. Legislation like this, which has already passed in other states, asks us to stomach allowing our state to kill people in our name via a method that our veterinarians won't even recommend for our pets. Furthermore, proponents of this execution method have gone on record to state that it is motivated, at least in part, by a frustration with states' inability to acquire sufficient lethal injection drugs. They are quick to blame protesters and activists, but here's the thing: that's just free-market capitalism. If a company doesn't want its products associated with the dark cloud of pain and suffering that hangs over every state killing because it hurts their bottom line, shouldn't that raise questions over whether we should be doing it at all? Similarly, since taking a life is one of the most serious and consequential powers we currently afford our government, and perhaps the only official act that can't be undone, I find myself suspicious of anyone who wants to accelerate that process for any reason, let alone convenience. It's included in the information sheet I handed out during my previous testimony, but, since 1973, there have been 200 people exonerated from death row in the, in the US. Excuse me. That works out to about four per year, or one per quarter. The certainty that we have already and likely will again allow the state to kill innocent people should alarm us all. And while we may ultimately end up disagreeing over the need for capital punishment in our state and in our nation, I hope we can at least agree that, given its enormous gravity, we certainly shouldn't make the process any easier or faster. Please reject this bill once more. Thanks again for your time. And if anyone has any questions, I'll do my best.

BOSN: Thank you. Any questions? I don't see any. Thank you.

ALEX M. HOUCHIN: All right. Thanks.

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BOSN: Next opponent. Welcome back.

TOM VENZOR: Thank you, Chairwoman Bosn, members of the Judiciary Committee. My name is Tom Venzor, T-o-m V-e-n-z-o-r. I'm the executive director of the Nebraska Catholic Conference. I'm here to testify against LB434-- LB432, which creates a new method of executing human beings through the use of nitrogen hypoxia. The bishops in Nebraska have strongly been opposed to the use of the death penalty for several decades now, and it's important to state-- and I want to reset some of these principles again for opposition. While the traditional teaching of the church doesn't condemn the use of the death penalty in principle, the death penalty is also not regarded intrinsically in moral, but in-- it recognizes that, you know, that there's a right and duty of the state to defend society from unjust aggressors. But I think an important criteria here that the church has also laid out is that there-- if there are non-lethal methods that are sufficient to defend the innocent and preserve public order and safety, then public authority should limit itself to such means, as they are more in keeping with the common good, and in conformity with the dignity of human life. To pose a couple of questions that Saint John Paul II posed-- which I think are relevant to this discussion-- is the death penalty absolutely necessary for the protection of public safety? And are there no other means by which to defend society from an unjust aggressor? In light of that, you know, Pope Francis most recently said that the-- these-- essentially, the conclusion here, the death penalty is inadmissible because it's an attack on the inviolability of the dignity of human person, and we should work with determination for its abolition. In other words, there's a means for maintaining public safety without recourse to the death penalty. And while we recognize that Senator Lippincott has stated that this is not a question about whether we have it or not, but it's more-- it's a question of method, I think for us, it's a question of whether we have it or not, because effectively, right now, we don't really have a death penalty other than the exception of Carey Dean Moore, unfortunately, in recent years. But it's something we haven't been using. But this would provide an avenue for its use. In addition to that, you know, we're appreciative of Senator Lippincott's efforts on religious liberty in other contexts; we are concerned about an unintended consequence, I think, of this bill. So in Ramirez v. Collier, which is a 2022 U.S. Supreme Court decision, there was concern there by the Supreme Court

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in an 8-1 decision about the religious freedom concerns of an inmate who was up for capital punishment not having access to their chaplain at the time of their execution. Basically there, the court said that they were concerned with the protocol that didn't allow for that inmate to have access to their chaplain. I think assuming that this would be, you know, a bill that would-- were to pass, that would cause serious concerns about, you know, chaplains and others being able to have actual access to the inmate at the time of their execution, which is obviously a critical moment of a person's life, and their ability to have in their First Amendment rights of religious liberty, to have access to their chaplain at that moment. So, that would be a concern also that's more practical, but also principled in nature. So, with that, we would urge your opposition to this bill. And I'll take any questions.

BOSN: Any questions for this testifier? Seeing none. Thank you for being here

TOM VENZOR: Thank you very much.

BOSN: Next opponent. Good afternoon.

ABBEY KLEIN: Good afternoon, Chairperson Bosn and members of the Judiciary Committee. My name is Abbey Klein. I am-- sorry. A-b-b-e-y K-l-e-i-n. I am a family nurse practitioner, a nurse scientist, and an educator in Nebraska. I'm testifying today on behalf of the Nebraska Nurses Association, which represents more than 30,000 nurses in the state of Nebraska. All nurses in Nebraska and the United States of America are bound by our code of ethics, delineated by our overarching parent organization, the American Nurses Association. The following statements represent the American Nurses Association and Nebraska Nurses Association position on capital punishment, and nurses' participation in capital punishment. We oppose both capital punishment and nurse participation in capital punishment. Participation in executions, either directly or indirectly, is contrary to the fundamental goals and ethical traditions of the nursing profession. This position is in alignment with the International Council of Nurses position that considers the death penalty to be cruel, inhumane, and unacceptable. Our opposition extends to all forms of participation by nurses in capital punishment by whatever means, whether under civil or military legal authority. The ethical principle of nonmaleficence

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requires that nurses act in such a way to prevent harm, not to inflict it. The act of participating in capital punishment clearly inflicts harm. Nurses are ethically bound to abstain from any activities in carrying out the death penalty process. Nurses must not participate in capital punishment, whether by chemical, electrical or mechanical means. Nurses in their professional roles, including advanced practice, should not take part in addressing-- assessing the incarcerated individual or the equipment; supervising or monitoring the procedure or the incarcerated individual; procuring, prescribing or preparing medications or solutions; ins-- inserting the intravenous catheter; injecting the lethal solution; attending or witnessing the execution; or pronouncing the incarcerated individual dead. Nurses should not train paraprofessionals in any of the activities previously mentioned for the purpose of their use in capital punishment. In accordance with the code, nurses should not assist, supervise or contribute to the ability of another to directly cause the death of an incarcerated individual. The Nebraska Nurses Association opposes LB432 and the use of capital punishment in the state of Nebraska. We respectfully ask the Committee to stop the advancement of this bill. I'd be happy to answer any questions you might have.

BOSN: Thank you. Any questions for this testifier? Seeing none. Thank you for being here.

ABBEY KLEIN: Thank you.

BOSN: Next opponent. Anyone wishing to testify in the neutral capacity? Oh, OK. Sorry. Good afternoon.

ELIZABETH OSBORNE: Good afternoon. My name is Elizabeth Osborne, E-l-i-z-a-b-e-t-h O-s-b-o-r-n-e. I am here-- I was talking to my husband last night, primarily, I think as an educator, as a teacher, as one who cares for the future of the students whom I teach. And, as I've thought about this bill, I have felt so angry and so sad that this is even being proposed. I don't, I don't see how the intentional consideration of how to kill somebody can be considered humane on the part of the people thinking about doing it. So I'm actually very concerned about, really, the soul of the state of Nebraska, to get kind of existential here, that we would want to follow in the footsteps of Alabama, Louisiana, Mississippi and Oklahoma, who have a really terrible track record of treating people justly. So, I-- it's

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just-- I haven't known exactly how to approach this, or what to say, except that, just as a citizen and as an educator, it worries me, it infuriates me, it insults me. And I find it embarrassing that we would consider going down this path. And for all of those reasons, and to protect my students, I would oppose this bill vehemently. And I'll take any questions.

BOSN: Thank you. Any questions for this testifier? Seeing none. Thank you for being here. Any other opponents? OK. Welcome back.

GRACE JACOBSON: Do I need to spell my name again?

BOSN: Yeah, you do. Please.

GRACE JACOBSON: OK. My name is Grace Jacobson, G-r-a-c-e J-a-c-o-b-s-o-n, and I am opposed to using nitrogen hypoxia as a method of execution. Obviously, in part because I'm against the death penalty, I'm against killing other human beings, but also because associating nitrogen hypoxia with execution lessens the seriousness, in my opinion, and the autonomy of people who may choose assisted suicide due to terminal illness if nitrogen hypoxia were to be made, made available to them in the future. I don't think we should be executing people, flat-out, for any reason. I'm not OK with that. I do recognize that there is suffering that a human being can endure that is too much, and that they need to pass on. And I don't want a dignified death to be tainted with what I consider the murder of another human being. Something else to bring up is-- I have a background in science, and one of the methods of killing test animals before biopsying them, doing-- continuing research on them, essentially, is nitrogen hypoxia. This is confirmed to be the most humane option that they have. But we do not have a guarantee that it truly is painless. We don't have a guarantee that they truly don't experience any stress. We know that they experience less, we know that it's far less traumatic than snapping their necks, but it's still not a guarantee. And I don't think we should ever subject another human being to something such as death without them-- it being on their terms, I guess to say. I know this is sort of a weird perspective and a weird turn, but I'm against the death penalty and I don't want someone's dignified death to be tainted. And that's all.

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BOSN: Thank you. Any questions for this testifier? Thank you for being here. Next opponent. Last call for opponents. Sorry I didn't see you come in.

JOSEPHINE LITWINOWICZ: Huh?

BOSN: I didn't see you coming back up here. Welcome back.

JOSEPHINE LITWINOWICZ: Nobody did, huh? Anyway, I'm just kidding. My name is Josephine Litwinowicz, J-o-s-e-p-h-i-n-e L-i-t-w-i-n-o-w-i-c-z. With an extra 20 seconds added. You know, it just-- it boggles my mind we're talking about now, what gas to use or whatnot. You know, it's, it's funny because, you know, when pigs are slaughtered and they use the cheapest method of gas if it is carbon dioxide. And the lung-- their lungs foam up and, and horror for a minute. And so, it doesn't really-- I don't know why we can't find some way, in this goofy world, if you're going to kill people against the biblical Jesus' word-- well, why can't-- can we invest a little money and figure this out? And I'm-- I was a scientist and an engineer, and it's not like building a watch, I guess it is. But why can't we figure this out? If you're going to do it, if you're going to sell your soul and, and trade your Christianity for a facade of such-- I don't know. It's annoying. And I'm going to-- it's funny. I-- as, as we say it on the floor, I'm gonna yield the rest of my time.

BOSN: Josephine, just so you know, she doesn't start the timer on your three minutes until you finish spelling your name.

JOSEPHINE LITWINOWICZ: I'm sorry.

BOSN: That's OK. But just so you know.

JOSEPHINE LITWINOWICZ: OK. Can I-- I'll do it now?

BOSN: No, no. You spelled your name. I just-- I didn't want you to think that your name was counting against your three minutes.

JOSEPHINE LITWINOWICZ: OK. You know what? That's cool.

BOSN: Any other opponents? Those wishing to testify in the neutral capacity? And while Senator Lippincott is coming up to close, I will note for the record there were 10 proponent comments submitted, 78

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opponent comments submitted, and 0 neutral comments submitted online.
Thank you, Senator Lippincott.

LIPPINCOTT: If I could, I did mention that I've got a state-- a letter from the State of Alabama Office of Attorney General, and I would like to just lift out two sentences to address Senator McKinney's question about the pain issue. It's from the first paragraph, the last sentence, it-- and it reads, "These accounts have"-- what, what, what it's talking about is some people testified about or reported that the Eugene Smith [SIC] experienced some pain. So, the attorney general is addressing those concerns. Again, it's the last sentence, first paragraph, and it reads as follows. "These accounts have refused to consider whether Smith held his breath or whether his initial behavior was intentional, conscious behavior, explaining why it ceased when Smith lost consciousness after he could no longer hold his breath." And then, if I may turn the page. On page 2, top paragraph, first complete sentence, it again says, "Not once has Smith's spiritual advisor claimed that Smith cried out in pain, because Smith was silent as he held his breath. Smith shook, but those movements were the product of his conscious behavior." I just want to, again, just say that I do truly believe that this is a painless way. And, you know, people have talked about it. It's whether you are for or against the death penalty, we're not talking about that; we're talking about how to do this in a humane, painless, peaceful way. And if I may add one additional note, I was asked by a reporter that was covering this earlier today-- this is separate from the pain issue. And he asked, with the lethal injection medicine that these penitentiaries use right now, is it kept on hand? I did not know the answer to that a little while ago, but we did call out to the penitentiary and no, we do not. So that's why sometimes there's a problem. Once the courts say that here's a date for use, that they have to scramble in order to find that medication. I was unaware of that earlier.

BOSN: Thank you.

LIPPINCOTT: That's all I have.

BOSN: Any questions for this testifier? Senator McKinney.

McKINNEY: Thank you. Listening to what the attorney general said was kind of troubling, because it says-- it said these accounts failed to

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consider whether he held his breath or whether his initial behavior was intentional. I don't understand that. And we're talking about a man who was being murdered. And-- or, like, whether his spiritual adviser said, whether he said so-- he was, he was being killed. I don't know, if somebody was killing me, whether I'm going to talk, or I'm going to just be quiet. And just, like, especially-- I, I don't know, but-- I guess-- a couple questions. Just a couple. The risk of, like, prolonged or botched executions. How do you know that this is a-- I don't even-- I can't even describe this because it-- I don't think it's right. I'm not going to ask the question.

LIPPINCOTT: You mean the useful time of consciousness? Is that--

McKINNEY: No.

LIPPINCOTT: --what you're talking about?

McKINNEY: I do have some questions about, like-- I don't even think is right, so I can't even ask the questions.

LIPPINCOTT: That's OK.

McKINNEY: Thank you.

LIPPINCOTT: Thank you, sir.

BOSN: Any other questions? Thank you for being here, Senator.

LIPPINCOTT: Thank you. I appreciate it.

BOSN: That will conclude our hearing for LB432. Next, we will begin the hearing for LB358, for Senator Guereca. If I could, just sort of as we've been going along, see a show of hands of those who wish to testify on this bill. Two, got it. Oh, three. OK. And are you planning to stay to close?

GUERECA: Sure.

BOSN: Thank you, I did not see his hand up. All right, Senator Guereca, welcome.

GUERECA: Hopefully this doesn't take two hours like yesterday.

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BOSN: Agreed.

GUERECA: Members of the Judiciary Committee. Thank you, Chairwoman Bosn. I am State Senator Dunixi Guereca, I represent the 7th Legislative District of Nebraska, representing downtown and south Omaha, here to introduce LB358. LB358 would make a change to the law relating to who can get access to an incarcerated person's individual file. Current law requires the Director of the Corrections to establish and maintain an individual file for each person committed to the department. Each individual person's file contains information relating to the particular person, including progress reports, reports of any disciplinary infractions, the outcome of those infractions. LB358 will provide clarity to the law that a person who is incarcerated does not need to obtain a court order to access their individual file. To provide clarity, LB358 allows an individual to obtain their own file through a written request to the chief executive of the facility where the person is housed. There will be a testifier who follows me, who will explain how the law is currently being applied in certain circumstances, and why this bill is necessary. I urge the committee's favorable consideration for the bill, and will answer any questions you have.

BOSN: Any questions for Senator Guereca? Thank you. First proponent.

JOSEPHINE LITWINOWICZ: I'm not going to wrangle, wrangle you into extra seconds. I'm going to give my name off the bat. My name is Josephine Litwinowicz, J-o-s-e-p-h-i-n-e. And just-- can you tell me what the-- because I [INAUDIBLE] we're talking about-- trust me, I guess I'll do it, because today is-- oh no, this doesn't-- this does not look good.

BOSN: Josephine, this is LB358 listed on, on your sheet.

JOSEPHINE LITWINOWICZ: Huh?

BOSN: Is that what you're asking?

JOSEPHINE LITWINOWICZ: Yeah. What is it about?

BOSN: It's LB358, which is regarding inmates and their access to their records from the Department of Corrections.

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JOSEPHINE LITWINOWICZ: Yeah. Yeah, I got a story for you. And this is the main thing. One time, I was getting home from work, from my show, and I got arrested because ostensibly-- well, that-- I was the reason why he did it. But I had a tail light out on my license plate, one on each side. And I, I was-- what happened was-- and you could hear it on NPR, and you're-- in the past. So she arrested me on a, a bench warrant for armed robbery. And so-- she knew better, though. Because nobody was upset. But I didn't know. You know, I go to a-- I found this-- this is comic after the fact. And, and so I go in there, and I didn't know I was going to be put in with somebody that, that was really bad. And here's another thing. I'm just saying the justice system, at least-- it's probably the same everywhere. So the holding tank was full. This is the holding tank right next to OPP, where if you look at a, at a 2012 YouTube video, you'll see these pris-- hard prisoners. They're racking back, they're [INAUDIBLE] bullets are coming out, they're drinking beer, and they have women in the cell. Now I'm getting-- ah, that's all right. You guys take it easy.

BOSN: Any questions? Thank you for being here.

JOSEPHINE LITWINOWICZ: Thank you.

BOSN: Next proponent. Welcome.

GRANT FRIEDMAN: Welcome. Thank you. Good afternoon. My name is Grant Friedman, G-r-a-n-t F-r-i-e-d-m-a-n, and I am a staff attorney at the ACLU of Nebraska testifying in support of LB358. As Senator Guereca stated in his opening, this bill is about providing clarity to ensure that people who are in Nebraska prisons can access their own individual files without a court order. In our work, the ACLU of Nebraska, hears from individuals who are currently incarcerated often. We have recently learned this-- at least some individuals are not being provided records of the grievances they have submitted. Section 83-178 of the Nebraska Revised Statutes is cited in these denials, and individuals are told that they can only access their documents with a court order. The issue is that attorneys typically will not take a prison conditions case without seeing an individual's grievance, but an individual cannot access those grievances without a court order. Thus, this creates an access to courts circular logic problem that has been created by the department. The Department of Correction response to concerns about needing a court order that each grievance-- each

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individual is given a carbon copy of the grievances they file. But there are several problems with this being the only copy an individual has access to, and the actualities of what occurs. First, that copy is often sent out to attorneys that the individual is seeking to take their case and never returned to the individual if the attorney does not end up taking their case. Second, individuals are not allowed to have more than a specific number of legal document-- documents in their possession while incarcerated, so they cannot keep all of the records that would be necessary to show. Additionally, it is our understanding that some facilities within the Department of Corrections have recently switched to digital grievances on tablets. This method does not provide the individual with a paper copy of their grievance at all. Finally, the writing on the carbon copy given to the individual is often impossible to read due to a problem with pushing through on the paper, or the illegibility of handwriting. I am aware of concerns that have been or will be presented by the Attorney General and the Department that have been submitted online or are testifying after me today. The intention in no way is to jeopardize the safety of those housed in our correctional facilities, or of those who work there. Rather, this bill seeks to ensure that individuals have access to their own grievances, which does not contain sensitive information or pose a threat to the safety of the facility as a whole. I'm circulating a handout that showcases some of the many concerns we have heard about on this issue from Nebraskans within the Department of Corrections. Thank you, and I'm happy to answer any questions.

BOSN: Thank you. Any questions for this testifier? Senator DeBoer.

DeBOER: Thank you, Chair Bosn. So, I-- I'm trying to kind of figure out exactly what we're dealing with here, because it looks like what you're talking about is they don't have copies of the grievances. Is the whole file-- which I think is the, the bill is asking for them to have copies of their whole file. Is that separate from grievances, or is-- are you-- the--

GRANT FRIEDMAN: Do you want me to just start answering how I think it is?

DeBOER: Yeah, why don't you just start answering.

GRANT FRIEDMAN: OK.

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DeBOER: It's been a long week.

GRANT FRIEDMAN: You're totally good. So the-- our main concern is with the access of those grievances. And what's being cited in the denial of those access to grievances is that individuals don't have access to their institutional file. While we're open to having an amendment or discussion about narrowing it to be just the grievances in that record, the denial is based on the fact that they don't have a record-- they don't have access to their file without a court order.

DeBOER: OK. So the, the sort of core of what you all want is that folks get access to their grievances and the resolution of their grievances?

GRANT FRIEDMAN: Yes.

DeBOER: Thank you.

BOSN: Senator Storm.

STORM: Thank you, Chairwoman Bosn. Thank you for testifying. So what do-- you when you say institutional files, what's in those files?

GRANT FRIEDMAN: So, the institutional file that is-- specifically contains the whole thing is not something that's act-- open to the public. So, what's specifically kept in there is usually things such as medical records, psychological records, your grievance log, your responses, any kind of formal complaints that have been filed, your PREA evaluation. I'm sure the department will come up and testify after me to give more specific information for what's in there, but that's the broad overview that-- what's it contained.

STORM: So what if somebody in the institution made a threat, or had complained about this inmate for some reason in the prison, and now that prisoner could see which person just made a complaint against them, or snitched on him or whatever. Can you see that being an issue, that that inmate now knows who in the prison has threatened to do something to them, or has snitched on them or something like that? Because they're going to see everything now, right?

GRANT FRIEDMAN: I'm not exactly sure--

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STORM: Because I think they already have the-- sorry to cut you off. They already have their medical and psychological access to those records, from what I understand.

GRANT FRIEDMAN: They have access to the medical records with the HIPAA, not the psychological records. Those can-- don't get released without the court order. The-- my understanding of how the institutional file work is whoever makes the report on another inmate, that would appear in that reporting individual's file. However, I don't know the specifics of what goes into those institutional files.

STORM: So they would see some really sensitive information, I believe. That's the way I take it. Which could probably lead to some trouble inside. So, thank you. That's all I wanted to--

BOSN: Sorry, Senator Hallstrom.

HALLSTROM: I, I've been here as long as Senator DeBoer, so, maybe I've got the same problem. But perhaps this is what she was getting at. When, when I look at the existing statute-- and what it says is information that's in the individual file-- I don't see anything that relates to grievance information or grievance-related information. And I thought your testimony was that there, there would be stuff of that nature, things-- materials of that nature, excuse me, that would be in there.

GRANT FRIEDMAN: The-- so, when an individual who's incarcerated submits a request for their grievances, they are told, based on 83-178, that they don't get access to those because it is protected in the institutional file as requiring a court order.

HALLSTROM: But my suggestion would be there's nothing in 83-178 that says the grievances even have to be in that file. That may be the practice, but it doesn't appear that the statute requires that.

GRANT FRIEDMAN: If you would like to propose an amendment to change that, I am happy to have that conversation. If you want to separate--

HALLSTROM: I, I-- I'd prefer that you just take my suggestion. If you think it's a good one, you can draft the amendment. I'd be glad to look at it. Thank you.

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GRANT FRIEDMAN: Understand, Senator.

BOSN: Any other questions? Always good to see you.

GRANT FRIEDMAN: Good to see you as well.

BOSN: Next oppo-- or, proponent. Excuse me. Welcome back.

GRACE JACOBSON: How have you been? We're just have rapid fire
[INAUDIBLE].

BOSN: That's OK.

GRACE JACOBSON: I'm passionate about all of them. My name is Grace Jacobson, G-r-a-c-e J-a-c-o-b-s-o-n. Access to one's personal files when incarcerated is vital to ensure that people have the right of due process and maintain their safety. As mentioned before about grievances, there are inmates who have been denied access to those under that statute, which-- I appreciate that because I didn't have to bring out my folder because I forgot it at my parents', regrettably. But inmates should not be denied their own personal records. I do recognize that if there are-- there's information that needs to be redacted, that's perfectly understandable and valid. But requiring a court order just so you can prove to an attorney that, hey, I have a case, or, hey, I need help. Or to have proof of records of a grievance, or of an incident that occurred, that is really not OK. It means inmates-- they don't have any power. They're inmates. They-- so, if they did commit the crime, assuming they were guilty, their loss of privilege is loss of freedom. They can't just walk up to the filing cabinet and go get it. They can't walk into the office and demand it. They have to go through processes. Requiring a judge is just, in my opinion, an extra step that disenfranchises them from their basic rights of due process and of safety. Being in prison is the punishment. Being harmed by other inmates, or being put in risk or danger by personnel is not part of their punishment. And obfuscating the records makes it harder for them to get help, and to ensure their safety while they're serving out their sentences. And that's my main point.

BOSN: Thank you. Any questions? Senator Rountree.

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ROUNTREE: Thank you, Chair. When a member wants to file a grievance, what is the process? Is there a specified individual they go to and say, I want to file a grievance involved in a situation?

GRACE JACOBSON: I have no idea. I only have the very barest--

ROUNTREE: OK. It may be coming up in the next testimony--

GRACE JACOBSON: Yeah, he, he's the one that's the expert. I just have, like, the barest understanding. I just knew that-- he brought up the one singular statute that I was going to bring up, which was fortunate, but-- sadly, I'm not an expert. My biggest concern is just-- I know that people have been trapped in the process, and it's, it's a feedback loop. It's-- I need to talk to a judge; well, the judge won't talk to me because I don't have an attorney. I need an attorney, I need the records; well, I can't get them without a judge. And it just traps someone. And that's my big concern, because, again, their punishment is being imprisoned, or serving house arrest or whatever other punishment they've been given; it's not being put in danger, it's not being denied their rights.

ROUNTREE: Thank you.

BOSN: Any other questions? Thank you for being here.

GRACE JACOBSON: Yeah. Sorry I'm not an expert. I wish I was.

BOSN: That's all right.

GRACE JACOBSON: There's too many [INAUDIBLE]

BOSN: Next proponent. Proponents? Now we'll move-- oh. Josephine, I think you've already testified on this bill, so you'll have to wait until the next bill. Any other proponents? Now we'll move to opponents. Anyone here to testify against this bill? Good afternoon.

ROB JEFFREYS: How you doing? Hi, everyone. Good afternoon, Chairperson Bosn, and members of the Judiciary Committee. My name is Rob Jeffreys, R-o-b J-e-f-f-r-e-y-s. I'm the director of the Nebraska Department of Correctional Services, and I'm here today to provide testimony opposing LB358 because of the safety concerns it would present to the population, not to mention the victims, and the strain it would place

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on the agency and the staff and its resources. LB358 would allow for any-- people to have access to his or her own individual file upon written request. I want to point out a major safety concern, which was already brought up by some of the chairs-- I mean, some of the committee members-- because these files include sensitive information such as detailed criminal, criminal investigations conducted by investigative teams, security threat groups, affiliations, conduct reports. Access to this information would create significant security concern within our facility. Furthermore, allowing these records into our facilities creates the potential for people to be some-- become targets among their peers, or open-- opens up staff to be retaliated against from particular inmates. The mission for our department is to keep people safe. And I'm proud of the efforts our agency have made to address the decrease in violence in our facilities so far. It is our responsibility as an agency and the state to ensure that the practices we adopting support the safety of our population. My second concern is the strain that this bill will put on some of our staff and our team members. It would require significant cost, and parameters surrounding the frequency of the files requested that can be made. This could become a substantial strain on our operation and our staff, as listed in the fis-- fiscal note of this bill. I just might "ention" that last-- might mention that last year, Nebraska became the fourth state in the nation to become-- to join Reentry2030, a national initiative aiming at improving reentry. As part of this initiative, our department focused on ensuring that each person reentering the community is provided with critical documents so they can be successful. These documents includes such as certificates, Social Security cards, state IDs. These are important for obtaining employment and resources in the community. Additionally, our team currently has a process for individuals to access pertinent information such as health care records. Because LB358 would create a safety concern for the population and a strain on the department's staff and resources, I stand opposed to us. Thank you for this testify today, and there's any questions that I can answer.

BOSN: Thank you. We'll start with Senator McKinney, and then move to Senator DeBoer.

McKINNEY: Thank you, Chair Bosn. Thank you, Director Jeffreys. Looking at the statute, 83-178, I don't see grievances in here, as Senator Hallstrom mentioned. So how is it included in the file?

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ROB JEFFREYS: So let me, let me address the grievance process. Each-- I mean, since that's been the topic of discussion.

McKINNEY: No, but-- before you address the grievance process-- I guess, how, how are the grievances-- because I'm looking at the options that can be maintained in this individual file, and grievance isn't one of those. A, a, a grievance isn't one. So how is that being included?

ROB JEFFREYS: I don't understand your question.

McKINNEY: So, let me read it. It says "the director shall establish and maintain, in accordance with regulations of the department, an individual file for each person committed to the department. Each individual file shall include, when available and appropriate, the following information or such person:" his or her admission summary; (b) his or her pre-sentence investigations report; (c) his or her classification report and recommendation; (d) official records of his or her conviction and commitment, as well as any earlier criminal records; (e) progress reports and admission orientation reports; (f) reports of any disciplinary, disciplinary infractions and of their dis-- disposition; (g) his or her parole plan; and (h) other pertinent data concerning his or her background, conduct, associations, and family relationships.

ROB JEFFREYS: OK.

McKINNEY: I aint-- nothing about grievances is mentioned.

ROB JEFFREYS: So, if I may.

McKINNEY: Yeah.

ROB JEFFREYS: All right. So the issue with grievances is that it's a process in which somebody has aggrieved, just like in the, you know, if I have-- don't have nothing coming to me, I can, I can grieve it. And there's several steps and what have you. But the individual has-- gets a copy of the grievance as he files that grievance, right? So, that grievance is submitted to whoever is in, in-- responsible for the grievance area, what have you. Then whoever responds to that grievance provides a copy of that response back to the individual as well as-- too. So, they have a copy of their initial grievance, and they have a

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copy of the response to that grievance. Not to mention, just past year, you know, moving forward, we, we went to the electronic filing process so there's more accountability. So there's a, there's a, there's a timestamp of when grievances are filed, there's a digital copy of what the grievance is, and who it-- who is responsible for it. And also a time-- and as I said, a timeline as to when it was respond to. So there's a digital copy for that grievance as well, too. That can be printed off and provided at any particular time that individual asks for the copy of that grievance as well, too. So, I don't-- I'm kind of at, at loss as to-- if this whole hearing is about copies of grievance when those are readily available, not just from the population but from the institution as well, too.

McKINNEY: Yeah. But there are stories-- and I've heard of other stories outside of what was shared here. But after I say a couple of these, I want you to respond. It says, throughout the year, I've submitted grievances that simply vanished; a porter found my grievances in the trash. This is somebody at RTC. Since September 2024, they failed to respond or send receipts to three separate informal gr-- grievances, and once in step one grievance. This is somebody at NSP. There are supposed to be receipts given, none given. Another person at NSP. Many of my grievances are thrown out, or returned unanswered. Somebody else at RTC. I failed-- I, I filed multiple grievances, and the administration is not sending the responses until it's past the date to file the next step of the grievance process. Somebody at RTC. How do you respond to that?

ROB JEFFREYS: I, I, I can't respond to it. That's the first time I'm hearing it. So what we can do is we can follow up and see the validity of those particular accusations, right there. So-- and, and I would remind everybody, based on those type of alleg-- accusation, is why we went to the grievance-- the electronic grievance process as well, too. Because it puts more accountability, there's a timestamp, it shows who responded to it. It also says the timeframe in which somebody had responded to it, and who it goes back to. So that's why we went to the electronic process as well, too. I can't speak to those. We've got a-- that's the first time I've heard of those.

McKINNEY: Are individuals current-- so, you're saying they're currently getting copies and receipts, according to your policy?

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ROB JEFFREYS: Yes.

McKINNEY: --in the statute? OK. How does someone get access to their PSI? Do they have to, like, request it?

ROB JEFFREYS: We don't give access to the PSI.

McKINNEY: So you-- so if somebody inside ever wanted to, like, see their pre-sentence investigation report, they never get to see it?

ROB JEFFREYS: No, we don't, we don't give copies of the PSI. For the, for the, for the same reasons we talked about initially, about the security issues.

McKINNEY: Yeah. There's--

ROB JEFFREYS: There's related, too.

McKINNEY: No, no, I understand. So, what if somebody was, like, seeking an appeal, was trying to get access--

ROB JEFFREYS: Still, no.

McKINNEY: Who would they request it from?

ROB JEFFREYS: They'd have to go through their attorney.

McKINNEY: Attorney? OK. And last question. How does somebody argue against a misconduct report if they never can see the report?

ROB JEFFREYS: So, repeat that again. Once again.

McKINNEY: So, let's say somebody gets a MR, and--

ROB JEFFREYS: What's a MR?

McKINNEY: Misconduct report.

ROB JEFFREYS: OK.

McKINNEY: And they're saying, like, "no, that didn't happen" or "that's wrong." The CO said something that was-- like, reported

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something that's not right, and they wanted to fight it. How can they see that?

ROB JEFFREYS: So they get a copy of their conduct report when they-- a conduct report is issued to them. Then, they have to go before the rules infraction board, and then there's a hearing. Right? And then, they're able to, you know, once that hearing-- they're able to appeal that, right? And then, based on that appeal, they have another option to appeal that to a higher authority. Right? And so all of that is, you know, just like the court system. So there's a, there's a, there's a, there's a hearing, there's an appeal process; you don't like that appeal, then you have your ultimate, sort of like Supreme Court, what have you. Somebody oversees that, which would be the warden. And then that's the final decision.

McKINNEY: So do they ever get to see the original report?

ROB JEFFREYS: Yes.

McKINNEY: OK.

ROB JEFFREYS: They get a copy of the conduct report for which the, the infraction which they've been accused of.

McKINNEY: All right. Thank you.

ROB JEFFREYS: OK.

BOSN: Senator DeBoer.

DeBOER: Thank you. Good afternoon, Director Jeffreys.

ROB JEFFREYS: Hi again.

DeBOER: Hi. I think that the point is to make sure that inmates have access to these grievance reports. When did you go digital? You said you went digital with those?

ROB JEFFREYS: Yes. Whoo. I should get a text at any time right now.

DeBOER: Somebody will tell you? OK.

ROB JEFFREYS: I'm, I'm thinking--

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DeBOER: No, that's all right. I just-- a minute ago, you might have [INAUDIBLE]

ROB JEFFREYS: I'm thinking September, October,--

DeBOER: OK.

ROB JEFFREYS: --that we piloted it at a-- some smaller facilities before we went statewide.

DeBOER: OK. So we'll ask some people in a minute if some of these issues might have been solved by the digital grievance system.

ROB JEFFREYS: Right.

DeBOER: But let me understand how it works. So they submit a grievance digitally. Help me out, do they do it on their iPads, or how do they do it?

ROB JEFFREYS: It's, it's-- so, so everyone has an, an--

DeBOER: A tablet.

ROB JEFFREYS: Yeah, no iPads. So everybody has a tablet. And what we-- what we're providing is, you know-- I can, I can speak on those tablets with all the other amenities that we're trying to put in those tablets. But nevertheless, they have a concern, somebody with medical. They file a grievance, that grievance goes to that medical supervisor for which that area is, you know, is taken care of. There's a time frame as to when that is responded to, and then, based on it, it comes back to the-- for the, for the individual. Individual can accept that response or what have you, or they can file an appeal to a higher authority, which is usually the warden, what have you. Then the warden renders their opinion, what have you, then it comes back to the aggrieved.

DeBOER: And there-- is there some sort of, like, for lack of a better word, "digital ticket system" that shows them--

ROB JEFFREYS: Yes. Yes.

DeBOER: --where it-- where it's going?

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ROB JEFFREYS: Yes. And so that's why we put the ins-- the electronic process in place, so we can have that triage, or tree response to get it to the right person, as opposed to it going into a mailbox, and then carried and placed, and what have you.

DeBOER: Is it possible to still file them--

ROB JEFFREYS: Electronically?

DeBOER: --paper? By paper?

ROB JEFFREYS: Yes. I mean, paper, yes.

DeBOER: So they still could file them by paper. Let's imagine that I file a grievance in, in York by paper--

ROB JEFFREYS: OK.

DeBOER: --for whatever reason, and I would like to see-- I lose my copy, something. I would like to see access to that. How do I get access to a copy of that grievance?

ROB JEFFREYS: So you filed a grievance?

DeBOER: Yes.

ROB JEFFREYS: And you lost your carbon copy?

DeBOER: Sure. Yep.

ROB JEFFREYS: All right. And then it comes to me, I respond, and I give you a copy of your grievance and my response.

DeBOER: OK. So I can, I can just ask--

ROB JEFFREYS: You'll get a copy of my response to have your-- that has your original grievance on-- grieve on it.

DeBOER: So I think what one of the concerns people have is that they're not getting their responses in time for them to step it up. Right?

ROB JEFFREYS: That-- I mean, I, I can't--

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DeBOER: Sure.

ROB JEFFREYS: --argue for or against-- right.

DeBOER: Yeah. You don't know. You don't know, so you can't say. So, what I'm asking is, if they are concerned that they're not going to get a response in time, and they've unfortunately not taken advantage of the digital method, but they've done a paper copy. Can they ask for-- who do they go to to ask for the, the update on the disposition of their paper grievance?

ROB JEFFREYS: The per-- the, the person or the division head in which they file a grievance to.

DeBOER: OK.

ROB JEFFREYS: So, if it's medical, it's the medical director, or nursing director, or what have you.

DeBOER: And they can get that without getting access to the rest of their file.

ROB JEFFREYS: I'm kind of lost now. So, if you filed a grievance,--

DeBOER: Mmhhh. And I just want to see--

ROB JEFFREYS: --you lost your, you lost your paper.

DeBOER: I just want to see--

ROB JEFFREYS: When I respond to you, you get-- you're getting a copy back of your original grievance with my response on that grievance. That's coming back to you in a paper form.

DeBOER: OK. I guess I-- because I think we may all end up on the same page if we can figure this piece out, that's where I'm belaboring it. So, for the grievance process, and I just want to know-- give me a status update. I didn't avail myself--

ROB JEFFREYS: There's a time frame. There's a time frame.

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DeBOER: I didn't avail myself of the digital. I would like to know, could I submit in writing a request for a status update of my grievance?

ROB JEFFREYS: I suppo-- yeah, you can do a, a-- [INAUDIBLE] it's called a kite or something, to ask the status of your grievance. Yes.

DeBOER: OK. And I don't need to get my entire file in order to see the, the status--

ROB JEFFREYS: Status.

DeBOER: --of my--

ROB JEFFREYS: Right. So you're-- you're wanting to know just the status, though. Not a copy of the status. Yeah.

DeBOER: Right. I want to know what's going on, where I'm at in the process. And I could get that if I just requested a status update?

ROB JEFFREYS: Yes.

DeBOER: OK. All right. Thank you.

ROB JEFFREYS: OK.

BOSN: I just have a couple of things I want to clarify. I've heard a lot of great things about the tablets, both from the inmates I've had conversations with. I think that is a great accountability process. Is it possible-- is there a tab on there, or an icon on there that compiles all grievances you've may have ever filed? And here's my example. Let's say I'm an inmate, and I'm serving 2-4 years, and I think I've got a case, but it's been building over time, right? It's not based on one grievance, but rather based on a dozen grievances over the course of those 2 years. Am I-- I'm, I'm now about to be discharged, right? I was a great inmate, and I'm going to be discharged. And I'd like to have that file so I can go to someone and say, I have a, a-- I have a case; I want someone to pursue it. Can I access all of those grievances over the course of time on my tablet before I go?

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ROB JEFFREYS: That's a good question. I have to get back with you on that, because I, I just don't know.

BOSN: OK.

ROB JEFFREYS: I don't know that question-- that answer.

BOSN: And, and I think that's really what we're-- the heart of what we're trying to get at is. And I think there-- the grievance process on the tablets is probably a step in the right direction,--

ROB JEFFREYS: You're right.

BOSN: --because it's accountability for both individuals, right? Now it's time-stamped,--

ROB JEFFREYS: Absolutely.

BOSN: --nobody can say, "oh, that's not what it says." And so, I appreciate that. But I think if you have an inmate-- and hopefully we don't have inmates who feel this way, but if we have an inmate who said, "No, I've got a pattern of behavior from this particular--

ROB JEFFREYS: Absolutely.

BOSN: --correctional officer who I think just has it out for me," and I wanted to go back and get them all, I think that's what Senator Guereca is actually hoping to accomplish the ability to do in this bill. And it sounds like the answer to that may be yes, but you want to confirm whether that's actually true.

ROB JEFFREYS: Yeah. It, it-- if that's what that-- if that's what this bill is saying, it's not written as such. Right?

BOSN: Fair enough.

ROB JEFFREYS: And so, you know, let me just, you know, summarize that not only are we attempting to centralize and put time stamps on our grievance process, it is we want to centralize it as well, too, because now I've created a chief inspector for my agency who's over all the inmate affairs and grievances, anything that-- you know, you know, constituent services and all that. So we can centralize, so if

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we're, we're able to monthly, quarterly identify any types of trends based on the data that's presented by the tablet information as well, too. So we can see those pain points where we start talking about particular hotspots is medical, or food service, or particular individuals or particular shifts, any type of things like that. Then, we have a duty to respond. So that's, that's, that's-- that's the great part about, you know, centralizing it and having that electronic process as well, too.

BOSN: Thank you. Oh, Senator Hallstrom.

HALLSTROM: Let me just take a little different approach. I, I fully understand and appreciate your comments about the sensitive nature of what's in that individual personal file. But in your testimony, you've indicated that if there's a health record, there's a process or procedure to access those health records. And I assume those are personal to the inmate.

ROB JEFFREYS: Right.

HALLSTROM: I'm wondering if there's a similar, either paper-based or electronic system that is personal to the inmate with regard to grievances that are filed.

ROB JEFFREYS: Yes, absolutely.

HALLSTROM: And, and that would seem to me to be the file, if I'm grasping all of this, that they want access to, and if it's personal and separate from that sensitive nature personnel file, then it sounds like you probably have a similar system for them to get access to those records.

ROB JEFFREYS: Yes. And so-- but the two-- the two differences is the medical file is something that, you know, is a file based on your health, and there's no back-and-forth. A grievance is a process in which I have a grievance; I have a copy of it, I send it to you, and I have a paper copy myself.

HALLSTROM: And, and-- but everything in both of those files is personal to the inmate.

ROB JEFFREYS: Yes.

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HALLSTROM: It's their grievance, and that ought to be, presumably-- unless I-- if there's other things I'm not thinking of-- available. And it sound-- sounds like it probably is.

ROB JEFFREYS: Yes. Yes.

HALLSTROM: OK. Thank you.

BOSN: Any other questions for this-- Senator McKinney.

McKINNEY: Thank you. Just one quick question. How long are they stored? As-- like, so, over time. Because I'm kind of wondering about-- are they stored-- will they be stored on a cloud? Or do you have, like, an internal server that'll keep them-- like, a grievance forever? Just-- or, are you, after a certain period of time, clearing the server? Just curious.

ROB JEFFREYS: Yeah, I have a-- that's a good question as well, too. I have to follow up on that one, because we're contracting through a, a provider. So, their storage-- I, I don't know the contract parameters as to if it's cloud storage or, or based.

McKINNEY: OK.

ROB JEFFREYS: Yeah. Good question, though. I'll follow up with that.

BOSN: Any other questions? Seeing none. Thank you for being here.

ROB JEFFREYS: All right. Thank you.

BOSN: Next opponent. Good afternoon.

MARILYN ASHER: Hello. My name is Marilyn Asher, M-a-r-i-l-y-n A-s-h-e-r. I did not necessarily plan on testifying today, but after a career in engineering, which abruptly ended at 9/11, I came to work for the Department of Corrections in Nebraska from 2002 to 2017. So, I was there as volunteer and religious coordinator at the Nebraska Correctional Youth Facility, and I was-- I would just like to reiterate everything that Director Jeffreys said. I found the department to be highly organized. I was actually astounded when I started working there. I thought that only engineering firms were organized. But-- very organized, and I believe that the process that

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they used to address grievances was inmate-centered, and I was just astounded at the, the way in which things were done. So, I just wanted to let you know that what Director Jeffreys says is true. I haven't been there for seven years, but I'm excited to hear about the new developments, so.

BOSN: Thank you. Any questions for this testifier? Thank you for being here.

MARILYN ASHER: OK. Thank you.

BOSN: Next opponent. Anyone wishing to testify in the neutral capacity? And while Senator Guereca is coming up for his close, I will note for the record there were 9 proponents comments submitted, 2 opponent comments submitted, and 0 neutral comments submitted. Welcome back, Senator Guereca.

GUERECA: Thank you, Chairwoman. Well, it sounds like we've got a conversation going. And there's some changes that we need to make to hopefully have these, you know, folks get access to their grievances and make sure that everything's flowing in the right direction. So, I look forward to working with the department, with everyone, with this committee, to make sure we can accomplish that.

BOSN: Thank you. Any questions based on that? Awesome. Thank you.

GUERECA: Thanks.

BOSN: Thanks for being here. Next, we will begin our hearing on-- well, actually, this is a combined hearing on LR5CA and LR6CA. And I'm not sure we have Senator Cavanaugh just yet. Are you opening for her? That's fine, no worries. While she's coming, can I just see a show of hands of how many individuals plan to testify on one or both of these bills? 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15. OK. About 15 individuals. Yes. OK. So, while we're waiting, also if I can just ask everyone here-- so, for purposes of a combined hearing, when you come up and testify, if you could please state which bill you're here for, or if you're here for both. And, in addition to that, in what capacity you're here for. So, I won't be calling proponents and opponents; I'll just call up testifiers, and I'll ask you to say, "I'm here in support of LR5CA and in opposition to LR6CA," or vice versa. And so, I may ask

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you to clarify if we have questions on that. But you'll also need to do two green sheets, one for each of the bills, so that she can properly track a record of that. So, if you have any questions on that when you come up, I'm happy to answer those questions. But the introducer of this bill and I had a conversation, and she asked if we could combine these. And so, that's what we're doing just in a-- in an effort not to have everybody have to duplicate their testimony.

DANIEL McMULLEN: I do have a question about time, then, in regarding to that. Since it is a combined, will it be still the 3 minutes?

BOSN: Yep.

DANIEL McMULLEN: OK.

BOSN: Yes. Thank you for the question. I should have answered that. You're OK. Come on up. Your staff bought you-- yes. OK, so I kind of went through-- just so you're up to speed, I went through with everyone the process of a combined hearing--

M. CAVANAUGH: Sure.

BOSN: --and the need for two green sheets. And I just told them I would have them clarify if it wasn't clear from their testimony.

M. CAVANAUGH: OK, great. Thank you.

BOSN: All righty.

M. CAVANAUGH: Hi, everybody. Hi.

BOSN: And there are about 12 testifiers, just so you know.

M. CAVANAUGH: OK.

BOSN: Yes.

M. CAVANAUGH: All right.

BOSN: Whenever you're ready.

M. CAVANAUGH: I'm good at-- wow, I feel, like, very loud. Good afternoon, Madam Chairwoman, and members of the Judiciary Committee.

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My name is Machaela Cavanaugh. I represent-- oh. M-a-c-h-a-e-l-a C-a-v-a-n-a-u-g-h. Represent District 6 in west central Omaha. Today, I will be introducing two constitutional amendments, and thank you to the chairwoman and her staff for putting them together, because they basically, they go together, so thought we would not have to have redundant testimony. LR5CA and LR6CA are two constitutional amendments relating to marriage. LR5CA would allow voters to repeal Article I, Section, Section 29 of the Nebraska Constitution, eliminating provisions relating to marriage deeming, deeming same-sex relationships not valid or recognized. LR6CA would allow voters to amend the Nebraska Constitution with language recognizing marriage, and authorizing the issuance of marriage licenses to couples, regardless of race and gender. The two constitutional amendments were drafted separately, to avoid concern over single-subject legislation. In 2000, Nebraska voters approved a constitutional ban on same-sex marriage. This ban faced legal challenges in 2005, and again in early 2015. However, the U.S. Supreme Court's landmark decision-- I always say this wrong-- Obergefell v. Hodges later in 2015 affirmed the constitutional right of same-sex couples to marry, rendering Nebraska's ban unenforceable. Despite this, the ban remains enshrined in our state constitution. If Obergefell were overturned, Nebraska's ban on same sex-marriage could once again take effect, threatening the rights and protections currently enjoyed by many families in our state. LR6CA would enshrine protections for interracial marriage. The U.S. Supreme Court's landmark decision Loving v. Virginia in 1967 struck down anti-- even-- my staff put this word in here, and I am not going to be able to pronounce it-- anti--

BOSN: Misogynistic. [SIC]

M. CAVANAUGH: Misogynistic?

_____ : No, it's miscegenation.

M. CAVANAUGH: Miscegenation. I was like, this isn't misogynistic. Thank you. Anti-miscegenation laws. However, given the current uncertainty surrounding long-term legal standing of "Overveld" [SIC] and Loving, it is essential that Nebraskans have the opportunity to secure marriage equality by amending our state constitution. This is about more than legal protections; it's about affirming the principles of equality, fairness and self-determination. The people of Nebraska

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deserve to decide for themselves, without relying on the shifting decisions of the Supreme Court, whether every individual has the right to marry whomever they love and enjoy the full benefits of civil unions. This is also about attracting and retaining talent. In the Legislature, we often hear about brain drain; young people living in Nebraska in search of opportunities in states that align with their values. Let's demonstrate that Nebraska truly is for everyone by taking a state-- this step to ensure that civil liberties are preserved for all Nebraskans now, and into the future. I urge you to advance both LR5CA and LR6CA, and I'm happy to take any questions.

BOSN: Thank you. Any questions from the committee? Are you staying to close?

M. CAVANAUGH: I might pop out and pop back in, because we're--

BOSN: That's fine.

M. CAVANAUGH: --going through some things.

BOSN: I can text you.

M. CAVANAUGH: Thank you.

BOSN: First testifier. Welcome back.

JOSEPHINE LITWINOWICZ: Thank you. Hi, Senator Cavanaugh. My name is J-o-s-e-p-h-i-n-e L-i-t-w-i-n-o-w-i-c-z. Now, this bill. We better pass this motherfucker. You'll never hear me curse again. You know, I can marry who I want. I didn't realize who I was until I was 50. And I'm a girl. I'm a feminine girl. And it just so happens that I was confused, because I want a woman. A cis woman. And so we-- you know, this is my own personal story. And I mean-- OK, you know, the Bible, Old Testament 1.0, the perfect analogy. That's where the laws were laid down. Now we have the New Testament 2.0, and Jesus didn't say a damn thing about it, because why? Because love was the only thing that mattered. And I'm not talking about-- you know, like, of course, like, with any relationship. I'm not talking about kind of sleazy love, or anything like that. I'm telling you what, as soon as you make it impossible. Oh, and Christ, for me to marry an interracial woman and who-- whoever-- because, you know, I've never hit a person. It's kind of-- it's kind-- me and J.C. have that in common, but I tell you what,

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you make it illegal for me to come out of my own house? I'm gonna fucking jack you in the neck. And so, we, we, we've got a problem here at why can't we love who we want to love? Because I tell you what, that's all I want. It's the only thing that's keeping me here. You see this? Part of this is, you know, nine stitches. But, you know, it was-- this is a part of it. And last time I had a peach can lid, I-- it was in the Capitol, I know there's a video. And, you know, I, I just-- I guess I-- I still missed it. You know, this is-- this-- you know, fuck this shit. Because you know what, even if you don't-- even if there isn't a God-- which I believe there is-- well, then, then you're gone and you're going to be gone anyway. And that's-- bygones. Anyway, I think I came for the one I wanted. You guys have a good one.

BOSN: Can I just, for the record, clarify you're testifying in support of both LR5CA--

JOSEPHINE LITWINOWICZ: That's--

BOSN: --and in support of LR6CA?

JOSEPHINE LITWINOWICZ: That's correct. And did I give my name?

BOSN: You did.

JOSEPHINE LITWINOWICZ: Take care.

BOSN: Have a great weekend. Next testifier. Good afternoon.

ZACHARY MATSON: Good afternoon, Senator-- oh, sorry. Good afternoon, Senators. My name is Zachary Matson, Z-a-c-h-a-r-y M-a-t-s-o-n. I'm here as a proud fourth-generation Nebraskan. I grew up near Springfield, Nebraska; I graduated from Springfield Platteview Community Schools. I went to the University of Nebraska, Omaha and I'm currently in the third year of law school at Creighton University, where I serve as the co-president of our Gender and Sexuality Alliance. My love for this state has shaped my-- has shaped my life, and I've worked hard to give back to it. I was even honored as an admiral in the Nebraska Navy for representing Nebraska on an international stage. That's why I'm here today, Senators. I'm asking you to uphold our state's motto, Equality Before the Law. I'm ask-- I'm here to ask you to give voters a chance to carry out their civic duties. And most importantly, I'm here to ask you to support LR5CA and

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LR6CA. These resolutions would give Nebraskans the opportunity to remove outdated, unconstitutional and discriminatory language from our state constitution. Article I, Section 29 has been in place for nearly 25 years-- my entire lifetime. But for almost a decade, it has been unenforceable under the decision of Obergefell v. Hodges. This language serves no function; the only thing it does is keep discrimination codified in our legislation and written into our state's most fundamental document. On our state's flags and above the doors we walked through today as Nebraska's motto Equality Before the Law. That motto is not just a slogan, it's not just a tagline. It is a promise. It is the principle on which our legal system is built, and still, we have language in our Constitution that stands in direct opposition to it. But beyond principle, and beyond the words in a legal document and on our flag, this thing-- this issue is measured in human lives. The issue is about real people, especially our children. According to the Williams Institute and Gallup Research, there are over 67,000 Nebraskan adults who identify as part of the LGBTQ+ community. Nearly a third of these people who are just like-- nearly a third of people are raising children. Nearly 23,000 Nebraskan children. These kids are like any other children in this state. They go to school, they play sports, they dream about their futures. And, most importantly, they deserve equality before the law. But if Obergefell is overturned, which is seemingly on the horizon, our children, these children of Nebraska, will be the ones who suffer. They will be suddenly finding their homes and their families in legal jeopardy through no fault of their own. Similarly, if we're going to overturn Obergefell, Loving v. Virginia is likely to follow behind. We must codify these protections for both same sex marriage and interracial marriages. Let me be clear. This issue is not going to just impact families; it will impact everybody in our state. Right now, LGBT-- LGBTQ students make up a significant, significant portion of the University Nebraska school systems, with 10% students that UNL, 9.8% at UNK, and 17% at UNO. Nebraskans are already seeing reasons to leave, and these young, educated, hardworking professionals are going to contribute to the brain drain if we do not fix our legislation to respect their values, their lives and our future. Today isn't about passing new laws or creating new rights, it's about removing language that has no legal effect but carries a real, damaging message. It's about giving Nebraskans the chance to vote on whether our Constitution truly reflects our state's values. I urge you to support these

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resolutions. Give the people of Nebraska the opportunity to decide, and let's take the small but meaningful step together towards making a future where every child in this state is valued, protected, and given the same opportunities and protections before the law. I ask you, Senators, will you uphold our motto, or will it just be words? Equality Before the Law. Thank you.

BOSN: Thank you very much for your testimony. Are there any questions from the committee? Seeing none. Thank you for being here. Next testifier. Welcome.

JORDAN SLAGLE: Hello. Good afternoon, Chairwoman Bosn, and the members of the Judiciary Committee. My name is Jordan Slagle, J-o-r-d-a-n S-l-a-g-l-e, and I'm a resident of Lincoln, and I'm here as a citizen. I'm here to speak in support of LR5CA and LR6CA for the proposed amendment to the Nebraska Constitution to recognize all marriage, regardless of gender or race. On January 31, 6 years ago today, I moved to Nebraska. I was a religious South Carolinian who identified as straight but was questioning for a while. I found my community here, in Nebraska. I found an openness in the people I interacted with. I started to explore my attraction more, to not just the opposite gender, but my own. One of the first friends I had here was a person that I came out to; someone born and raised in Nebraska, who I felt safer with than anyone I had growing up. I slowly came out to more and more people over the years, and publicly came out 3 years ago. Since then, I have met more safe Nebraskans who I proudly call my friends, coworkers and just general supporters. I also met the love of my life in Nebraska, who is here with me today as one of those supporters. I recognize that I am privileged because I live in a safe city, and so do most of my fellow LGBTQ Nebraska community members. But there are LGBTQ individuals all over this state who may not feel as safe as I do, who may not feel recognized. Don't we want Nebraska to feel safe for all who live here, to love who they love, and marry who they want to marry, regardless of gender identity? According to a study conducted by the Public Religion Research Institute in 2023, 67% of Americans were in favor of gay marriage. If you look specifically to Nebraska, 54% of Nebraskans are in favor. Many of those not in favor cite that their opinions are due to religious reasons. Marriage is so often seen as a religious union, when marriage existed long before the Bible. The first recorded marriage ceremonies took place in Mesopotamia around 2350 B.C. Same-sex relations or unions were first

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noted in ancient Egypt 4,400 years ago, the Bible being written 1,000 years after that. Any union of love between two consenting adults should be seen as valid in the eyes of the state, regardless of religious beliefs, regardless of gender, regardless of political affiliation-- affiliation. Love has no gender, it has no race, it has no religion, and it has no political alignment. I'll leave you with the words of former Supreme Court Justice Anthony Kennedy. "No union is more profound than marriage, for it embodies the highest ideals of love, fidelity, devotion, sacrifice and family." "The nature of marriage is that through its enduring bond, two persons together can find other freedoms such as expression, intimacy and spirituality. This is true for all persons, whatever their sexual orientation." Thank you.

BOSN: Thank you very much for your testimony. Any questions? Thank you for being here. Next testifier. Good afternoon.

CARTER GRIER: Good afternoon, Chair Bosn, Members of the Judiciary Committee. My name is Carter Grier, spelled C-a-r-t-e-r G-r-i-e-r, and I am here today on behalf of the Association of Students of the University of Nebraska in strong support of LR5CA and LR6CA. These constitutional amendments represent more than a legal correction. They symbolize an essential step toward equality, economic stability, and a Nebraska that truly values all of its citizens. As a student leader, I've had countless conversations with my peers about the struggles faced by LGBTQ students at our university. Many of my friends, classmates, and mentors have already made the difficult decision to leave Nebraska as soon as they graduate. Not because they don't love this state, but because they don't feel safe or valued here. The reality is, when students leave for states that prioritize their liberty, they take their talent, innovation and economic contributions with them. The University of Nebraska exists to prepare students for the workforce, and our state economy depends on retaining that workforce. A 2022 report by the Movement Advancement Project found that states with discriminatory policies lose out on billions of dollars annually in economic activity because companies and skilled workers relocate to states with stronger protections. We have seen companies prioritize expanding in locations where personal liberty and freedom are actively embraced. If Nebraska wants to attract businesses and keep our graduates here, we must show that we are a state where everyone, regardless of who they love, can thrive. Furthermore, if

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Nebraska continues to refuse to recognize same-sex marriages, we risk putting our university at a disadvantage in hiring and retaining top faculty and staff. Benefits for spouses and families may not be legally recognized, making it harder to recruit the best educators and researchers to teach and mentor students at our institutions. However, beyond economics, this is also a human issue. LGBTQ students at the University of Nebraska want to build their futures here, but many feel discouraged by policies that fail to recognize their rights and relationships. No student should have to choose between receiving a great education and living in a state that respects their freedom. These proposed amendments give us the opportunity to send a clear message that Nebraska welcomes and values all students equally. Testifying today is not just about policy; it is about people. It is about my friends who are unsure if they can build a future here in Nebraska. It is about the students who feel unsafe expressing who they truly are. It is about ensuring that Nebraska's laws reflect our values of fairness, dignity and opportunity for all. Nebraska's state motto is Equality Before the Law. Advancing these resolutions is an opportunity to live up to that promise. I urge this committee to advance LR5CA and LR6CA, and allow the people of Nebraska to vote on whether they want a state that welcomes and supports all of its residents. On behalf of the students of the University of Nebraska, I ask that you take this step toward a stronger, freer and more prosperous Nebraska. Thank you for your time and consideration.

BOSN: Thank you. Any questions for this testifier? Senator Holdcroft.

HOLDCROFT: Thank you, Chair-- Chairwoman Bosn. Thanks for testifying. Can you tell me more about the Association of Students of the University of Nebraska? Are you a sanctioned organization?

CARTER GRIER: Yeah. So we're put on by the university. We are basically the student government for the University of Nebraska-Lincoln. We elect senators based off of the various colleges that are involved. I'm the current government liaison committee chair, hence why I'm testifying here. We passed a resolution on Wednesday to basically allow me to testify to this, and it's a very formalized process, so.

HOLDCROFT: So, is this only in Lincoln?

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CARTER GRIER: Mmhmm. Yes.

HOLDCROFT: So it's not really the students of the University of Nebraska, but of-- at Lincoln.

CARTER GRIER: Mmhmm. Yes.

HOLDCROFT: How many students?

CARTER GRIER: I don't know that number off the top of my head, but we represent the entire student body.

HOLDCROFT: OK. Thank you.

BOSN: Thank you. Any other questions? Thank you for being here.

CARTER GRIER: Thank you.

BOSN: Next testifier. Welcome.

BRADY HACKNEY: I need the chair higher. Good afternoon, Senators. Thank you for allowing me to testify in front of you all. I am in support of both LR5CA and LR6CA. My name is also Brady Hackney, B-r-a-d-y H-a-c-k-n-e-y. I would like to begin just by sharing a little bit about myself. I was born and raised in Iowa, but I chose to attend law school in Nebraska with the hope to possibly practice law in this state. I've grown to love this state since I moved here in 2022. I live in downtown Omaha right now, but from a young age I recognized that I was different from many of those around me, particularly from my straight male peers. Growing up in a small southern Iowa town, I never imagined that one day I would come out as gay, let alone stand here today, proudly embracing my identity. I feel both grateful and fortunate to have reached the age of 25, despite the challenges I have faced. Challenges brought on by individuals who do not believe that people like me should have equal rights, particularly the right to marry the person of their choosing, or the right to vote on amending the Nebraska Constitution to protect same-sex marriages and interracial marriages. I'm here today to urge you to support LR5CA and LR6CA. I urge you to support these resolutions to allow us, the people of Nebraska, to vote on a constitutional amendment that would remove outdated language that does not recognize same-sex marriages or interracial marriages. To me, these measures are not merely policy

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decisions; they are matters of fundamental human rights. If I were in your position, the decision would be clear. It is deeply disheartening to find myself standing before you having to justify and explain why I deserve the same rights, specifically the right to vote on amending the Nebraska Constitution as my fellow citizens. The current political climate in this country has left me with serious concerns about the future of marriage equality. The possibility of Obergefell being overturned is alarming, and of course, Loving would follow soon after that. And with Nebraska's constitution as it stands currently, would not recognize same-sex marriage or interracial marriages. The thought that my rights and the rights of so many others could be stripped away in a place where I have endured some of the most difficult years of my life and possibly planned to build a family is profoundly upsetting. Even more disturbing is the fact that many LGBTQ individuals still live in fear of coming out, worried about legal uncertainties and societal rejection. Again, this is why I urge you to support these resolutions and give the power to the people to vote, just like they did 25 years ago. So, this is the first step: me being here. The next step is for you all to support these resolutions. Thank you.

BOSN: Thank you for your testimony. Any questions? Seeing none. Thank you for being here.

BRADY HACKNEY: Thank you.

BOSN: You bet. Next testifier. Welcome.

MACKENZIE LONCKE: Thank you. Thank you, Senator Bosn, and members of the Judiciary Committee for the opportunity to provide testimony today. My name is Mackenzie Loncke, M-a-c-k-e-n-z-i-e L-o-n-c-k-e, and I am the policy fellow at OutNebraska, a statewide nonpartisan nonprofit working to celebrate and advocate for LGBTQ+ Nebraskans. OutNebraska speaks in support of both LR5CA and LR6CA today. No matter what we look like, where we come from, or how we express ourselves, we all want the freedom to be ourselves and live healthy lives. Marriage is a deeply-held value that professes our devotion to someone we love, value and respect. Our state's constitution ban on same sex marriage is unenforceable and unconstitutional. The Supreme Court showed that all viewpoints can be respected when they issued their ruling in the 2015 case, Obergefell v. Hodges, stating that the fundamental right to marry is guaranteed to same-sex couples by both the due process clause

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and the equal protection clause of the Fourteenth Amendment of the Constitution. We know that gay married Nebraskans are valued members of our community. With the passage of the bipartisan Respect for Marriage Act at the federal level, we saw that our country can support the right for gay people to marry, even if it conflicts with individual religious beliefs. Representative Don Bacon of Nebraska perfectly illustrates this. Quote, as a person of faith, I believe in the traditional definition of marriage. However, I do not believe that government should dictate who can marry each other based on gender, race or ethnicity. Churches, synagogues, mosques, and other religious establishments have the right to decide within their walls and congregations who will perform marriages-- who they will perform marriages for, but the federal government does not. This has been the law for years, and many thousands have been married with this law of the land. Americans should have the right to their private lives. End quote. Nebraska has changed for the better in the last 20 years. More and more Nebraskans are openly supporting their gay friends, family and neighbors. In Nebraska, we truly believe in kindness, caring for those around us and the freedom to be ourselves. It's time for our Nebraska Constitution to reflect our state motto, Equality Before the Law. For these reasons, OutNebraska is in support of LR5CA and LR6CA, and we urge you to advance it from committee. Thank you.

BOSN: Thank you very much. Any questions for this testifier? Thank you for being here.

MACKENZIE LONCKE: Thanks.

BOSN: Next testifier. Welcome.

PAIGE GOERTZEN-WHITAKER: Thank you. Hi, my name is Paige Goertzen-Whitaker. That's P-a-i-g-e G-o-e-r-t-z-e-n-W-h-i-t-a-k-e-r. I'm a little nervous, so I'm going to try to catch my breath. I'm here today to ask for your support on LR5CA and LR6CA. I urge you to vote yes to allow the people of Nebraska to decide on these important constitutional amendments, with hope that families like mine will forever be protected under the law. The future success of Nebraska depends on ensuring that our state remains a place that is open to all, no matter whom they love. It seems like a lot of us have done this research, but in 2022, over 10,000 educated young people moved elsewhere, many of them seeking more inclusive environments that align

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with their values. Businesses cannot attract the best and brightest, nor retain the top talent if we do not send a message that Nebraska is a welcoming place for students, businesses and all families to call home. I'm here because I believe my family deserves the same legal rights, protection and recognition as other families. My wife and I have been together for 15 years, we've been married for almost 10. We are happy to be raising our daughter here in Nebraska. We pay taxes, support local businesses, and contribute to our community in countless ways. This state is our home, and we hope it will continue to be for the long term. Allowing voters to decide on the amendments reflects the core values of Nebraska: freedom, fairness, and inclusion. Please let the people of Nebraska have a say in this critical issue. Thank you for your time.

BOSN: Thank you. Any questions of this testifier? Thank you for being here. Next testifier. Welcome.

ANN MESSINA: Hello.

BOSN: Hi.

ANN MESSINA: Good afternoon, Senators. Thank you for your time and attention today. My name is Ann Messina, and I'm a third-year law student at Creighton University School of Law.

BOSN: Could you spell your name?

ANN MESSINA: Oh, yes. My apologies.

BOSN: That's OK.

ANN MESSINA: A-n-n M-e-s-s-i-n-a. Yeah, so I'm a third-year law student at Creighton. I'm also the other co-president of the Gender and Sexuality Alliance, and I'm here today in strong support of LR5CA and LR6CA. Now, as both a member of the LGBTQ+ community, and as someone in an interracial relationship, the protections these resolutions seek to enshrine are deeply, deeply personal to me. But beyond my personal stake, as a law student, I find it incredibly and deeply troubling the lack of explicit protections for marginalized communities in our state's constitution. As other people have said, for decades, Nebraskans have relied on the US Supreme Court rulings like Loving and Obergefell to safeguard their right to marry. However,

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given the current state of the Court, we can no longer assume that these federal protections will remain in place. That's why it's imperative that Nebraska take action to ensure that all couples, regardless of race, gender, or sexual orientation have the freedom to marry the person they love. Now, when I chose Creighton for law school, I was a little uncertain about whether I would find a supportive community. However, I was wrong, and instead found a warm, welcoming and surprisingly diverse community. Creighton's values, particularly *cura personalis*, which means care for the individual person, really resonated with me. Creighton teaches respect for every person as a child of God, while also emphasizing that Jesuit values should never be forced upon individuals. Now, I know there are Creighton alumni on this committee, and some of you may be familiar with these principles. But I do encourage all of you, regardless of background, to uphold this commitment to respect and dignity when considering LR5CA and LR6CA. Marriage is not a partisan issue; it's a human issue. And I recognize that not everyone will agree with me on this, but I think that is precisely why these resolutions must move forward, to get these issues on the ballot, and to allow the people of Nebraska to make the decision. And, for the sake of democracy and equality, I humbly urge you all to vote in favor of these bills. Thank you.

BOSN: Thank you for being here. I got to say, I'm glad there's such great representation from Creighton. Any questions? I guess-- sorry, I jumped the gun there. OK.

ANN MESSINA: Thank you.

BOSN: Next testifier. Welcome.

GABRIEL CORTES: My name's Gabriel Cortes, G-a-b-r-i-e-l C-o-r-t-e-s. I wanted to start by saying thank you guys. Good afternoon. Thank you for-- first time being at one of these things. I am 32 years old. I served 10 years in the U.S. Army. Disabled veteran. Before the Army, I used to do all kinds of things like play baseball, ride motorcycles. I loved cars-- driving cars, building cars. And those are some of the many rights I gave out when I joined the military. I can't do half the stuff I used to be able to do. And it sucks. I can't run. I can't walk. I can't barely sit in the courtroom. It's rough. I gave up these rights because other people didn't have any. Us taking away these

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rights from these people-- anyone can marry. I'm not white, I'm Hispanic. I'm not the typical race of America, whatever. I feel like I have given up these rights for nothing if you're willing to take away rights from people that deserve just as much as anyone else. Marriage should be for everyone and everyone. That's all I have to say.

BOSN: Can you just, for the record, say what-- that you're in support, or--

GABRIEL CORTES: Oh, I'm in support. I'm sorry.

BOSN: That's OK.

GABRIEL CORTES: I'm pro for both of them. LR5CA and LR6CA. All right?

BOSN: Yep. All right. Thank you very much. Oh, I'm sorry. Senator Rountree had a question for you.

GABRIEL CORTES: Oh, I'm sorry.

ROUNTREE: I don't have a question. I just want to tell you thank you for your service.

GABRIEL CORTES: Oh.

ROUNTREE: And thank you for the sacrifice, we appreciate it, to protect the rights of all Americans.

GABRIEL CORTES: Thank you for listening, sir.

BOSN: I think he speaks for everyone. Thank you. Next testifier. Welcome.

JACOB CARMICHAEL: Thank you. Sorry, I don't have a copy of my written testimony today. I was going to do it, but I was expecting the death penalty hearing to go a little bit longer. My name is Jacob Carmichael, J-a-c-o-b C-a-r-m-i-c-h-a-e-l, and I'm here today in support of LR5CA and LR6CA in my personal capacity. Good afternoon, Chairwoman Bosn, and members of the Judiciary Committee. I would just like to say my partner and I both grew up Catholic. We're both queer men. We have no desire to get married in the Catholic Church. We grew up with that. We know the values, and we know where we are and aren't

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wanted. I'm not asking you to change your personal definition of marriage, or change any of that. I'm simply asking for the law to be the law; for the law to not be religion, or anything behind it. I'm asking for a separation of church and state that is truly respectful, where the legal definition does not have to be the definition for your church, and your church definition does not have to be the definition for the law. As Americans, as laid out in the Declaration of Independence, we all have rights to life, liberty and the pursuit of happiness in the ways that we see fit. And that's all I think most of us are asking for. Thank you.

BOSN: Thank you very much for your testimony. Any questions of this testifier? Thank you for being here.

JACOB CARMICHAEL: Thank you.

BOSN: Next testifier? Welcome.

JACKSON GRACE: Good afternoon, Senators. My name is Jackson Grace. That's J-a-c-k-s-o-n G-r-a-c-e. I am here today as a proponent of both LR5CA and LR6CA. I'm a straight male. I've grown up all my life around, you know, queer friends and family, and so this is something that's near and dear to my heart. About 10 years ago now, not quite, we, we saw, you know, a historic Supreme Court case that legalized gay marriage across the board. And now, there's a very real possibility that that could get rolled back. And I think that's, you know, a one-step-forward, two-steps-back situation. I think that-- if the power should fall to the States, which isn't inherently a bad thing, but it is the responsibility of all of us to uphold the individual rights of our citizens regardless of their sex, any more than race, or socioeconomic class or ability. I think that we decided as a nation, in a moment of progress back in 2015, that everybody should have access to, you know, marriage; to be able to be with someone else, for it to not be infringed upon by the personal or religious or ethical beliefs of their representatives. I think that we agreed with that decision, that our representatives would recuse themselves and their personal beliefs from fair and just decisions regarding our rights. And, you know, in lieu of a push to repeal that decision from the Supreme Court, again, it falls to us as Nebraskans to uphold that, if nothing else, for our state. The language in our Constitution, as of right now, is archaic, it's outdated; it, it doesn't reflect a modern

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era where we have moved past, you know, such kinds of marriage discrimination. And I think that we ought to reflect that in our lawmaking, especially if we come to rely on our, you know, state constitution for what is, what is the law around here. So, I won't go-- I'll keep this brief. Everybody, you know, put it probably in better and shorter words than me. But I thank you all for your time, and I'm open to any questions.

BOSN: Thank you for your testimony. Any questions? Thank you for being here.

ROUNTREE: Thank you.

BOSN: Next testifier. Welcome.

SCOTT THOMAS: Good afternoon. Good afternoon, Senators. My name's Scott Thomas. I'm the director for Village in Progress Nebraska, and the Nebraska director for USIDHR. We do exclusively human rights work. I'm here to oppose LR5CA and LR6CA. Render unto Caesar what is Caesar's, and render unto God what is God's. The First Amendment of the US Constitution of 1787 and the Universal Declaration of Rights 1948, Article 18 expressly prohibit this action. I'm a LCMS Lutheran, and my father's an ELCA pastor. I was baptized on the 21st of November. I raise my children in the church. I was confirmed in eighth grade. I attend church every week, and I attend two Bible studies every week. I'm not cosplaying; I'm a Christian. Marriage is an aspect of religion that the state has no authority to change. It, it wouldn't be any different than Christians trying to make Muslims accept that Christ is Lord using the government. You can't use the government to suppress the church. We've heard mentions of the separation of church and state. Any time that there's prayer in school, we always hear a mention of the separation of church and state. The separation of church and state is a supposition that's meant to prevent the embedding of the church in the government. It's meant to prevent you guys from taking cues and imposing them on the church. That's-- that's what the separation of church and state is meant to distill. It's not meant to, to keep the government from taking cues from the church, but to keep the-- yeah, to keep the government from imposing its will on the people-- my bad, I'm sorry. I lost that right there. But you know what I was getting at. Yeah, it's, it's frustrating, man, because if you don't have borders, you don't have a country. And so, it's the

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same way with any other concept. Marriage is bound by certain defining principles. And if you change those, you can't call it marriage anymore. So like I said, there's just potential 1983 violations for you guys to consider. 1983 is a deprivation of rights under color of law. Any questions for the senators? I'd be happy to answer any them.

BOSN: Any questions? Seeing none. Thank you for being here.

SCOTT THOMAS: Appreciate it.

BOSN: Next testifier. Good afternoon.

TYLER IDEUS: Good afternoon. I am in support of LR5CA and 5-- or LR6CA as, as well. My name is Tyler Ideus, T-y-l-e-r I-d-e-u-s. I'm here to talk about how I don't really understand how we can go back in time. Obviously, the year 2000, I was only eight years old, so I didn't have a, a choice to vote on any of that. But now that I'm 33 and I see in Nebraska's legislators that I can't get married, is what they're saying in the year 2000. Obviously, that was overturned in 2015, but with the state of affairs going on, with how it could be put back into federal-- or, taken from federal and put back into states means that we will go back to the time when you will be married to somebody-- if you're not in a heteronormative relationship, you'll be married to somebody, you won't be able to see them in the hospital. You get in a car accident, you have any sort of thing go wrong, you don't-- you get denied health care with that person. You can't go see them in the hospital. They die all alone, without you to be there. And that's just not something I want to go back to. Obviously, that's something that would happen in Nebraska. That's something that would happen in a ton of other states that would take this policy and be like, "We're going to put this back into the states." And I see a huge problem with that for me, and for the entire LGBT community. I-- I don't know. It just-- it makes me really upset hearing that, and seeing that people would want that. And I would hope that in the year 2025, that we would get beyond that and be able to enshrine that in our Constitution, because that is a right that everybody deserves to have. Gay, straight, whichever. If you're both consenting adults, you should be able to get married, regardless of gender, race, anything. I guess in-- all I was going to say in my conclusion is that I'm not going to go back in the closet. Closets are for clothing, and not for me. So, I'm going to leave it at that.

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BOSN: Thank you. Any questions of this testifier? Seeing none. Thank you for being here.

TYLER IDEUS: Thank you.

BOSN: Next testifier. Laurie? Apparently, the yellow light isn't shutting off. I hate to have you start with only a minute.

ISABELLE THOMAS: I'm sorry?

BOSN: No, no, you're OK.

ISABELLE THOMAS: OK.

BOSN: My na-- if you could say it and spell your first and last name for us.

ISABELLE THOMAS: My name's Isabelle Thomas. I-s-a-b-e-l-l-e T-h-o-m-a-s. I'm here in support of LR5AC [SIC]-- 5 and 6-- I'm sorry, AC? I didn't expect to speak today. I get terribly nervous.

BOSN: You're fine. Take your time.

ISABELLE THOMAS: I support these bills because I have friends, coworkers. I see people every day that are going to be affected by this. I have friends that are sitting at home worried that their marriages may be dissolved, or they might not be able to marry the people that they love. And I think that's not fair. Since there are legal implications of being married legally, recognized by the state, it isn't just a religious issue, and it should be kept separate from religion. Legal marriage. That's pretty much all I have to say. I just urge you to support passing these. There being a law making gay marriage illegal in Nebraska is a stain on Nebraska. Thank you for hearing me.

BOSN: You're welcome. Any questions for this testifier? Seeing none. Thank you for being here.

ISABELLE THOMAS: Thank you.

BOSN: Next testifier. Welcome back.

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GRACE JACOBSON: I got this one emailed to me by my parents. That was nice. My name is Grace Jacobson, G-r-a-c-e J-a-c-o-b-s-o-n, and I am here in support of LR5CA and LR6CA. Personally, I wish the language didn't require a vote to strike from the Constitution, but I understand why. It was originally added by the people of Nebraska. If both Supreme Court precedents are repealed, the people of Nebraska deserve the right to say they have changed their minds. Nebraska is a different place than it was in the year 2000. While I recognize we have had some very concerning backsliding of social progress, it cannot be denied that we are far more welcoming and tolerant of a state than when I was a young child. In the year 2000, a gay couple could not safely be themselves in public. Risk of assault or worse were ever present. In 2007, I was attacked by classmates when I came out as bi. It was a massive scandal through the entire district of LPS. Parents wanted their kids pulled from classes they shared with me. I started my middle school's QSA that year. I continued to participate in QSA and high-- in high school, and my college's GSA. In 2015, one of my friends, a fellow member of Doane College's-- now University's-- GSA called me, crying excitedly that she could get fully, legally married in the state of Nebraska. She could stay and have a family here, the place she called home. Later that same year, one of my friend's younger siblings came out as gay. Instead of the harassment and animosity, they were supported and cherished by their friends and classmates. There were no calls to remove students from their classes. They were not concerned with the intent-- they were not cornered with the intent to be beaten up. In 2017, I attended the wedding of two of my college friends from QSA-- GSA. Nebraska has changed; we deserve the right to vote to reflect that in our Constitution. Another concern I have is, does anyone know what will happen to all of the same-sex and interracial marriages that have happened in the state of Nebraska since these rulings took effect? Will they remain valid? Do these couples have to go out of state to get remarried? What about parental rights, insurance taxes, joint custody if there was a divorce, mortgages, any of that? Will these unions be grandfathered in, but all future unions denied? What's going to happen? We need to ensure that we don't fall backwards. As a previous person stated, we can't-- we shouldn't undo the past. This is one of the most positive things that's happened in my lifetime, and I don't want my friends and their families to have to leave the state they love and call home. And I'd like to have a family here someday,

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too. So, please support this bill, and hopefully the state of Nebraska will continue to love and cherish everyone. Thank you very much.

BOSN: Any questions? Seeing none. Thank you for being here. Next testifier. Welcome.

JAIMEE TROBOUGH: Thank you, Senators. My name is Jaimee Trobough, J-a-i-m-e-e T-r-o-b-o-u-g-h. I am a lifelong Nebraskan, a 47-year-old mother, and I'm here to testify in favor of LR5CA and LR6CA. And I'm heartened by the many young people who have already spoken today. I'm here today humbly speaking on behalf of many, many of my friends and family members who are in long-term, beautiful, loving same-sex or interracial marriages. Many of my friends fought hard to acquire their rights, and these are families whose rights are threatened by the lack of basic protections in Nebraska. And it's imperative that we add protections for the marriage rights of all Nebraskans, regardless of race or gender. I'm also here with an eye toward the rights of my child, and my future grandchildren in our state. I'm grateful to Senator Cavanaugh for introducing these resolutions during this time when state and federal laws threaten to remove basic protections for Nebraskans. I support these resolutions, and encourage you to advance them. Thank you.

BOSN: Thank you for your testimony. Any questions? Thank you for being here. Next testifier. Come on down. Welcome.

JAEDYN PAYNE: Hello, thank you. My name is Jaden Payne. That is spelled J-a-e-d-y-n P-a-y-n-e, and I am a proponent of LR6CA and LR5CA. I have no political background, and was not intending on testifying today, but I do have an experience in being a human being. I was born just a few blocks away at Bryan West Hospital, and I've known nothing but living in Lincoln, Nebraska. Everything I have learned about my own race and sexuality has been within this community. Without the ability to married-- marry, regardless of race, I would not have existed. Without the ability to marry regardless of sex or gender, I would not have the hope of a fruitful life. Same-sex marriage is something that seems so trivial to get rid of. Those who are able to love who they want to love are only asking for happiness and peace. The thought of leaving my hometown because I am unable to live my life equally to others in heterosexual marriages or

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same-racial marriages is scary, disheartening, and upsetting. Please let others love freely, just as we love this state. Thank you.

BOSN: Thank you for your testimony. Any questions? Thank you for being here. Next testifier. Welcome.

DANIEL McMULLEN: Hello. Good afternoon, members of the committee. My name is Daniel McMullen. That is spelled D-a-n-i-e-l, McMullen, M-c-M-u-l-l-e-n, here on my own accord under Senator Jane Raybould for District 28, proponent for both LR5CA and LR6CA. As a college student, I should be spending my Friday afternoon studying, but here I am defending the possible future of my relationships. Queer folks are not going away, and I saw that very clearly when I was here proposing for LB574 just a few sessions ago. If queer folks aren't going away, why try so hard to push us out? Nebraska isn't for everyone because of the land, or because of the government's put in place are unwelcoming? (Article) I-29 is to be repealed for all people, regardless of gender or race. Why do you feel that same-sex marriage is a threat? As someone said earlier, why-- what are you afraid of? And are you prepared to just stand by? A couple other questions for you. Regardless of gender or race, it's 2025, and we're debating interracial marriage one week after MLK Day. What the actual hell, guys? Like, what-- what is that? What are we doing? What are we doing about the poverty that floods our 11th, North 27th, Superior, or Cornhusker streets? Why are we not talking about that? Why is my sexuality and my future on the line when there are bigger fish to fry? Both Democrats and Republicans must look at the states of queer Nebraskans, and decide if Nebraska is not for everyone. Is that truly the motto that you want to stand by? We cannot think of each other as others; we can't think of each other as enemies. Why is there not a solution for working together, side-by-side? "The greatest of these is love." Where is your love? As a queer Nebraskan, I do not feel loved. And you are all [INAUDIBLE] that. I encourage you to move forward with both LR5CA and LR6CA. Thank you, and I'm happy to answer any and all questions.

BOSN: Any questions? Seeing none. Thank you for being here.

DANIEL McMULLEN: Thank you.

BOSN: Next testifier. Welcome.

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ADELLE BURK: Hi. Good afternoon, Chairperson Bosn and members of the Judiciary Committee. My name is Adelle Burk. That's A-d-e-l-l-e B-u-r-k, and I'm a senior manager of public affairs for Planned Parenthood North Central States in Nebraska. Central to our mission at Planned Parenthood is the conviction that all people deserve to live in communities where sexual and reproductive rights are recognized for what they are: basic human rights. All people, regardless of who they are or who they love, deserve to leave safe, healthy and meaningful lives, and I'm here to testify in support of LR5CA and LR6CA. Planned Parenthood is committed to fighting for the full bodily autonomy of our patients and our friends and neighbors across Nebraska. To achieve full reproductive and bodily autonomy, every Nebraskan must have the freedom to enter into marriage, regardless of their-- their or their partner's gender or race. That is why Planned Parenthood proudly supports Senator Cavanaugh's proposed amendments, and we thank her for bringing them. Planned Parenthood is a trusted health care provider for the LGBT community, because we offer compassionate, non-judgmental care to our patients, and we know that the LGBTQ community faces higher rates of discrimination in our state, including external efforts to try to fundamentally change or deny who they are. By removing outdated and discriminatory language from the state's constitution, the state can move one step closer to truly being a place that all Nebraskans can safely call home. In addition, these proposed constitutional amendments give Nebraska voters the opportunity to affirm their support for equality before the law at an important time. US Supreme Court Justice Clarence Thomas's concurring opinion in *Dobbs v. Jackson Women's Health Organization* is the reason that many fear the federal constitutional right to marriage equality guaranteed in *Obergefell* and *Loving* may be at risk. Nebraskans deserve the opportunity to make their voices heard clearly in support of equality. LR5CA and LR6CA are important steps forward for Nebraska. Thank you again to Senator Cavanaugh for standing up for all Nebraskans. We ask the committee to please support all families by advancing these amendments out of committee, so that Nebraskans have the right to affirm marriage equality in our state. On a personal note, *Obergefell* happened in 2015, in June, and two months later, I met my wife, and we have been happily married for 8 years. So, I just wanted to say that it's really important to me on a personal level that we are respectful to all Nebraskans, and recognize that every Nebraskan's experience of love, regardless of their race or gender, is

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valid. And it is not up to the government to decide whose love is valid. So, thank you.

BOSN: Thank you for your testimony. Any questions? Seeing none. Thank you for being here. Next testifier.

SCOUT RICHTERS: Good afternoon.

BOSN: Good afternoon. Welcome.

SCOUT RICHTERS: Thank you. Scout Richters, S-c-o-u-t R-i-c-h-t-e-r-s, here on behalf of ACLU of Nebraska in support of both LR5CA and LR6CA. From representing the Lovings in the landmark case of Loving v. Virginia to serving as co-counsel in Obergefell v. Hodges guaranteeing marriage equality to same sex couples, the ACLU has long fought for marriage equality and opposed efforts to impose discriminatory restrictions on the fennel-- fundamental right to marry. We thank Senator Machaela Cavanaugh for introducing LR5CA and LR6CA. LR5CA and LR6CA give voters the opportunity to ensure that Nebraska's Constitution is consistent with current federal law, while sending the message to all Nebraskans that our state supports marriage equality for all people, regardless of gender or race. LR5CA would allow voters to remove Nebraska's current unenforceable and discriminatory ban on same-sex marriage within the state constitution. The United States Supreme Court has struck down laws that restrict marriage based on gender or race, and LR6CA, if passed by the voters, puts this into Nebraska's state constitution. Both of these measures allow voters to make these common-sense updates to the state constitution to ensure that our constitution is not only consistent with federal law, but is consistent with the Nebraska values of respect for our neighbors, and our state motto of Equality Before the Law. Thank you.

BOSN: Thank you for your testimony. Any questions? Seeing none. Thank you.

SCOUT RICHTERS: Thank you.

BOSN: Next testifier? Welcome back.

BENJAMIN BUGENHAGEN: Thank you.

BOSN: You bet.

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BENJAMIN BUGENHAGEN: I know it has been a long day, so thank you all for your patience. My name--

BOSN: You have no idea. This is way better than yesterday. We're still on our second hearing.

BENJAMIN BUGENHAGEN: I'm glad I'm here today, then.

BOSN: Yes.

BENJAMIN BUGENHAGEN: My name is Benjamin Bugenhagen, B-e-n-j-a-m-i-n B-u-g-e-n-h-a-g-e-n. It was mentioned on the floor this morning, I think by Senator McKinney, just how crucial it is to attract young people to work in Nebraska, and people generally. We cannot keep pushing people out of the state. When we have dated clauses that had to be voided by the federal government because we wouldn't do it ourselves, we are telling talented, passionate people that Nebraska is not a state that is ready to embrace all of her citizens and whether these professionals are in a same-sex relationship, what they see is a place that was forced to recognize the humanity of an arbitrarily-demonized group of people; a state that had to be dragged into equal treatment. This is not a grandfathered clause in our Constitution left over from a darker, less educated period in Nebraska's history. It's not even 30 years old. Plenty of folks in this room probably voted on the proposition. That's not an excuse to let it stay there. It is not possible-- not impossible that a Supreme Court opinion sometime in the future would make this section active once again. In the event of-- in the event of this decision, national protections for marriage fall. Nebraska needs to be one of the common-sense states insulated from the fallout of that decision. We can't be a state that would allow our citizens to be subjected to the government interfering with the private life of the family. To mass-void marriages that have existed for a decade would be a cruel, anti-family act. So, I would urge any senator who agrees with these statements to, to vote yes on these resolutions: that you care about the liberty of the citizen of Nebraska, that you care about strong, happy, healthy families in Nebraska, that you want talented professionals to remain here in Nebraska. And, if you have any empathy at all for your fellow human being, that you would vote yes. I will take any questions you have.

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BOSN: I think I know the answer. But just so the record is clear, you're in support of LR5CA and LR6CA?

BENJAMIN BUGENHAGEN: That is correct. I apologize for not indicating that earlier.

BOSN: That's OK. Any questions? Thanks for being here.

BENJAMIN BUGENHAGEN: Thank you.

BOSN: Next testifier. Welcome.

PETER LAEGREID: Hi. My name is Peter Laegreid. That's P-e-t-e-r L-a-e-g-r-e-i-d, and I am in support of LR5CA and LR6CA. And I just wrote this, so I hope it doesn't suck too bad. I'm a straight white guy who's already married and hates public speaking, so what the hell am I doing here? I'm here because the instant I wed my beautiful wife, we became eligible for benefits and privileges that unmarried folks don't get. If marriage was purely a church issue, we wouldn't be here talking today. But the second taxes and all these other tangible benefits became involved-- withholding these benefits from people because of sexual orientation or race, this becomes a civil rights issue, and I don't want to live in a Nebraska that makes consenting adults second-class citizens because of their genitals or the color of their skin. We have the chance to do the right thing and let all of our fellow citizens-- our Nebraskans, Americans-- access the benefits of not only a loving relationship, but the benefits of legal marriage. That's all I've got.

BOSN: Well, you did good for somebody who doesn't like public speaking.

PETER LAEGREID: Hate it.

BOSN: Any questions? Thank you for being here.

PETER LAEGREID: Thank you.

BOSN: Next testifier? All right. While Senator Cavanaugh-- oh, I'm sorry. I apologize. I didn't see you. Sorry. Sorry about that. I didn't you stand up. Welcome back.

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MARILYN ASHER: Thank you. My name is Marilyn Asher, M-a-r-i-l-y-n A-s-h-e-r. I am opposed to LR5CA and LR6CA. I'm with Nebraskans for Founders Values. Marriage is a covenant between a man and a woman who are physiologically compatible. As a result of the union of their divinely-designed anatomy, children are often born. It is the responsibility of the two spouses to raise these children until the age of majority. In the attempt to change this definition of marriage by not limiting it to the union of two opposite sexes, a constitutional amendment is a permanent statement that represents the opinion of Nebraskans who might vote for it. A constitutional amendment is like pouring concrete. It produces a very stable and permanent structure that cannot be broken without excessive force. When we examine the thinking that produces the changes to our society that are proposed by Senator Machaela Cavanaugh, we need to examine the basis upon which these changes are made. When our country and state were founded, they were founded upon the Judeo-Christian ethic that states in scripture that marriage is only between a man and a woman. Only through the union of a man and woman can another human being be produced. This is true all over the world, and in all of nature. It is not limited to those who possess the Judeo-Christian ethic, but those who possess that ethic have a strong basis upon which to build their families and children. And as we see this family structure challenged by these two resolutions, I question whether the architects of this plan have put adequate thought into what makes a stable family. When I worked as a draftsman in the civil engineering departments of several architectural firms in Omaha, I drew plans for streets, parking lots, and runways. I worked on plans for Air National Guard and office air-- Offutt Air Force Base, and runways for Eppley Airfield, and I had to pay attention to the soils on which the concrete would be poured. Great care went into studying deep layers of soils, and the drawing of plans to over-excavate to get rid of soils that were expandable and unworthy of bearing reinforced concrete which roadways and runways require. Once the unstable soils were removed, structural fill was required to replace them, and sometimes a surcharge on top of these soils was required to compact them for to prepare for heavy concrete. The last thing the civil engineer wanted was to have the concrete break because the soils beneath had not adequately been prepared to support the heavy traffic of trucks and airplanes. Society is not unlike the picture I have painted in your mind. There is no predicting what stresses the

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marriage a face will-- what stresses a marriage will face as it proceeds into the, the future. For 250 years, our nation has weathered storms that could only have been beaten by resting on principles that have come from our Judeo-Christian ethic. As we observe the struggles we are facing in this century, it's apparent that some citizens have abandoned the blueprints of the great engineer. In his own words, in Jeremiah 29:11, God states, I know the plans I think toward you, thoughts of peace, and not evil, to give you an expected end. If we substitute other philosophies and create an unstable foundation, we are subjecting our state's future to pathways of crushed pavement and potholes of social upheaval. Thank you.

BOSN: Thank you for your testimony. Any questions?

MARILYN ASHER: Yes.

BOSN: Senator McKinney.

McKINNEY: Thank you. And thank you. What was the organization you represent?

MARILYN ASHER: Nebraskans for Founders Values.

McKINNEY: OK.

MARILYN ASHER: You and I have had discussions on that before.

McKINNEY: We have.

MARILYN ASHER: So, go ahead and ask me a question.

McKINNEY: I have a lot of questions about the founders' values.

MARILYN ASHER: OK. OK. OK.

McKINNEY: So, so do you think the founders' values were, were, were great?

MARILYN ASHER: They were based upon the Judeo-Christian ethic.

McKINNEY: And you support--

MARILYN ASHER: And I know you're-- what you're getting at.

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McKINNEY: You support those?

MARILYN ASHER: Yes. They were slaveholders. Yes, they were. That doesn't mean that we, in Nebraskans for Founders' Values support slavery by any means.

McKINNEY: But you support the founders' values.

MARILYN ASHER: Yes, we do. But that's all-encompassing. It's, it's-- there's a lot broader spectrum than just that one.

McKINNEY: But isn't that a contradiction?

MARILYN ASHER: No, it's not.

McKINNEY: How, how so?

MARILYN ASHER: We believe in the liberty of-- and equality. The Fourteenth Amendment, that everyone is equal, so. And I'm basing my, my statements on what scripture says, not really on what the founders said. But the founders followed scripture.

McKINNEY: Yeah, but the founders believed in slavery, but the-- and they also used scripture to enslave people.

MARILYN ASHER: That happened with some people, yes. But guess what? We don't have it anymore because of the-- we had leaders that saw the error of those ways.

McKINNEY: It was more economics and trying to stop a war. But thank you.

MARILYN ASHER: OK. Thank you.

BOSN: Any other questions of this testifier? Thank you for being here.

MARILYN ASHER: OK. Thank you.

BOSN: Next testifier. While Senator Cavanaugh is making her way up, I will just, for the record, quote the comments for each of them. Starting with LR5CA, there were 639 proponent comments, 227 opponent comments, and 1 neutral comment. And then, on LR6CA, there were 758

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proponent comments, 211 opponent comments, and 1 neutral comment.
Thank you, Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you, members, for being here. Am I your last bill for today? Whoo. OK. So, I will try to be brief as I'm standing between your weekend. I-- so, I-- I've been looking through some of the stuff that my lovely staff put together, and one thing that I was remiss in bringing up was where we stand nationally. So, there are currently-- according to NCSL-- if those two Supreme Court decisions were to be overturned, there are currently four states that have legislation that, if Oberfell [SIC] was overturned, that then it would be enforceable. That is Indiana, Pennsylvania, West Virginia and Wyoming; and there are three states with constitutional amendments that if Oberfell [SIC] was overturned, it would be enforceable, and that is Nebraska, Oregon and Virginia. So, we are one of nine-- seven. Math. One of seven states that has this on our books. And, as we heard from so many of the wonderful young people here today, we don't want to be part of the brain drain problem. And having something like this in our state constitution is an unwelcoming message to individuals that are looking to locate here and have a family here. To the last testifier's-- some of the, the points that she made-- the architect of this, my-- myself, I do understand what building a family is. I am one of eight children. My parents have been married for over 50 years. I have been married for 17, almost 18 years; I have three children myself, and I have 16-- well, including my children, there are 16 grandchildren on my side of the family. And we are a hodgepodge of exuberant personality and interests, as you well know. And, and family doesn't look like a linear image. It is complex and messy and beautiful, and family can be built in so many different ways. And what this seeks to do is to give the people of Nebraska the opportunity to say, if we agree with the federal decisions that both gender and race should not matter when you are entering into marriage. So many other things should matter, but gender and race should not be one of them or two of them. And to the, the issues relating to religion, I was married in the Catholic Church; I am Catholic, I was raised Catholic, I went to Catholic school, I went to Catholic high school, I went to Catholic University. I have three children who are baptized in the Catholic Church, and I have a, a great deal of respect and admiration for faithful and religious beliefs. But this is a government contract. This does not dictate to any religious organization whom they can

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allow to marry within their organization. So, while I appreciate the intention to protect religious views, this does not seek to erode anyone's religion. It just seeks to put into our constitution with a vote of the people that this is not what we stand for. So, with that, thank you so much for your Friday afternoon. I hope that you will just move this along quickly, then we can just have it on the ballot in 2026.

BOSN: Any questions? I just-- for clarification, because this would be my first constitutional amendment--

M. CAVANAUGH: Yes.

BOSN: --in the-- since joining the Legislature. I don't understand the break up of LR5CA and LR6CA. Can you tell me why we need LR5CA, since the language is in LR6CA?

M. CAVANAUGH: So--

BOSN: And we can talk about it maybe afterwards, if it's a long answer.

M. CAVANAUGH: Yeah. It's probably more of an answer that we would want to involve the drafters in, because also I'm not an attorney, but I-- it has something to do with the single-subject. I think LR5CA is affirming language, and LR6CA is removing current language.

BOSN: OK.

M. CAVANAUGH: But honestly, I, I would-- I'm happy to check with the drafters on why that is. I've only introduced a constitutional amendment one other time, and it was just striking, like, two words. So, I'm also not well versed in that.

BOSN: I'll follow up with you.

M. CAVANAUGH: Thank you.

BOSN: Any other questions in light of that? Thank you for being here.

M. CAVANAUGH: Thank you.

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BOSN: That concludes our hearing and our day on LR5CA and LR6CA.