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Judiciary Committee
February 04, 2015

[LB586 LB602 LB647 LB648 LB663]

The Committee on Judiciary met at 1:30 p.m. on Wednesday, February 4, 2015, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB663, LB602, LB647, LB648, and LB586. Senators present: Les Seiler, Chairperson; Colby Coash, Vice Chairperson; Laura Ebke; Bob Krist; Adam Morfeld; Patty Pansing Brooks; and Matt Williams. Senators absent: Ernie Chambers.

SENATOR SEILER: The bewitching hour is here. It's time to get started. Welcome to Judiciary Committee. My name is Les Seiler. I'm the senator from Hastings, Grand...not Grand...except Grand Island, of Hall County, so...and I'll introduce you to the rest of the senators. On my far right is Senator Matt Williams from Gothenburg. Next to him is Adam Morfeld from Lincoln. Bob Krist will be back. He's got to go introduce a bill in the Revenue Committee. Senator Ernie Chambers will be here shortly. He's from Omaha. Legal counsel is Josh Henningsen, to my right. And to my far left is Senator Laura Ebke from Crete. I always want to say Wilber. I'm close.

SENATOR EBKE: Close, but not quite.

SENATOR SEILER: Senator Patty Pansing Brooks will be here, joining us--she's introducing a bill in another committee--Senator Colby Coash from Lincoln, and committee clerk Oliver VanDervoort. Our pages are Drew and Jonathan. And we're here to discuss the bills in the order of which I'm going to read, because we changed a couple around: LB663, LB602, LB647, LB648, LB586. Testifiers, anybody that's going to testify, get your sheet for...testifier's sheet, get it filled out before you testify, so you can present it to a clerk. They're on the table probably right outside the door. When you come up to testify, please speak clearly into the microphone. That doesn't amplify as much as we have transcriptions of these hearings and we want to make sure your entire testimony is received. Silence your cell phones and we will get started here. The first bill is LB663, Senator Hadley. And you're going to present for Senator Hadley? [LB663]

SALLY SCHULTZ: Yes. [LB663]

SENATOR SEILER: Okay. [LB663]

SALLY SCHULTZ: Yes. Good afternoon. My name is Sally Schultz. It's S-a-l-l-y, last name Schultz, S-c-h-u-l-t-z. And I am the legislative aide for Speaker Hadley and he was unable to be here this afternoon. Regarding LB663, Senator Hadley was asked to introduce LB663 at the request of the Governor as part of his responsibility as Speaker, as outlined in Rule 5, Section 8, of the Legislature's rules. LB663 is a part of the Governor's biennium budget recommendations.

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This bill raises the salary for the Chief Justice and judges of the Supreme Court in Nebraska by 2.25 percent on July 1, 2015, and again by 2.4 percent on July 1, 2016. Pursuant to the Nebraska Statutes, and I...in sections...we'll skip over that. The salaries of the appellate court judges, the district court judges, the...and separate juvenile court judges, county court judges, and Workers' Compensation Court judges, being tied by statute to the salaries of the Supreme Court judges, will also be increased by like percentages. This bill also contains an emergency clause. I'll gladly answer any questions, but I think there are a couple other testifiers that could probably do a better job of that. [LB663]

SENATOR SEILER: Seeing no questions, you may be...are you going to be here for closing? [LB663]

SALLY SCHULTZ: Yeah, to close, yes. [LB663]

SENATOR SEILER: Okay. Proponent testimony. [LB663]

GERRY OLIGMUELLER: (Exhibit 1) Good afternoon, Chairman Seiler and members of the Judiciary Committee. For the record, my name is Gerry Oligmueller. My name is spelled G-e-r-r-y O-l-i-g-m-u-e-l-l-e-r. I am the State Budget Administrator and administrator for the Department of Administrative Services' Budget Division. I'm appearing here today on behalf of Governor Ricketts in support of LB663. LB663 is one of eight separate legislative bills introduced by Speaker Hadley at the request of the Governor that contain his budget recommendations to this first regular session of the One Hundred Fourth Legislature. The remaining budget bills, LB656 through LB662, have been referred to the Appropriations Committee. As has been mentioned, the Governor's budget recommendations included funding to increase the salaries of the Chief Justice and judges of the Supreme Court, the appellate court, district courts, and separate juvenile courts, county courts, and Workers' Comp Court. LB663 is necessary as part of the budget package because judges' salaries are specifically established in state law. It increases the salaries, as was mentioned, by 2.25 percent on July 1, 2015, and 2.4 percent on July 1, 2016, consistent with that being provided for most others within state government in his budget recommendations for the next biennium. Do you have any questions regarding LB663? [LB663]

SENATOR SEILER: Any questions? Seeing none, you may be...step down. [LB663]

GERRY OLIGMUELLER: Okay, thank you. [LB663]

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SENATOR SEILER: Thank you for your testimony. Further proponents of the bill. Seeing nobody rushing from their chairs, opponents. Anybody in the neutral? You may close, Sally. [LB663]

SALLY SCHULTZ: Waive closing. [LB663]

SENATOR SEILER: Okay, waives closing. We'll make your testimony, written testimony, part of the transcription. And the hearing on LB663 is now closed and we will open on LB602. Senator Nordquist going to... [LB663 LB602]

_____ : He's on his way. [LB602]

SENATOR SEILER: He's on his way? Fine. Sorry to make you folks wait, but right now the senators are...have a pretty full agenda with introducing bills in all the committees. Senator Nordquist, you're ready to open. [LB602]

SENATOR NORDQUIST: Thank you, yes. Sorry about that. Ready to roll? [LB602]

SENATOR SEILER: Yep. [LB602]

SENATOR NORDQUIST: (Exhibits 1 and 2) Thank you, Chairman Seiler, members of Judiciary Committee. I'm State Senator Jeremy Nordquist from District 7 in downtown and south Omaha. I bring before you today LB602 which makes two changes to the Judges Retirement Act: the court fee that is dedicated to the Judges Retirement Fund is increased from \$6 to \$8 beginning July 1, 2015; and beginning October 1, 2015, it also places the \$8 court fee that goes to our Judges Retirement Fund on cases referred to pretrial diversion programs. This dedicated court fee is intended to fund essentially the employer contribution of...for the Judges Retirement System. All of our other retirement systems have an employee, an employer match. In the judges' system, the judges make a contribution; but instead of the state making an employer contribution, we have relied on court fees. And did we get the handouts out? Okay, yes, so you guys all have, perfect, a copy of...this is a quick couple pages out of the actuarial summary on the judges' retirement plan from this year. If you look at the bottom of the first page, it shows the historical nature over the last eight years of the judges' court fees, and you can see we increased to a high point of about \$3.54 million in 2010, and that's dropped back down to \$3.1 million in 2014. Over the past couple years, we've really kind of dug in, tried to understand why. There's a number of explanations that we've been given: sometimes the fees are being waived; sometimes it's...we've heard that part of the reason being is our State Trooper level has been at the lowest level in all...in quite a while and, because of that, we're not getting a lot of...as many tickets written, so

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that's fallen off; also because of the increase in pretrial diversion programs. So because of that, we've seen a reduction. And if you go to the back page, this shows the 30-year projection of the judges retirement plan and you can see the green line is the member contribution. So right now a new judge coming in pays a 9 percent contribution rate. And you can see that green bar grows as salaries will grow over the next 30 years. The blue bar represents the court fee, the \$6 court fee right now. And if we don't make any statutory changes, that amount remains flat. The red line and the concerning line is the additional required state contribution. And over the next 30 years, that adds up to \$144 million if you add all those red bars up together. And to add to that concern, this assumes that we need 8 percent investment return every single year for the next 30 years or at least average that. If we don't, that number gets bigger. And we ran a model. Because the Public Employees Retirement Board and the Investment Council have had discussions about even lowering that assumed rate of return to maybe 7.75, making the change down from 8 percent to 7.75 grows that \$144 million number to about \$168 million number. So that's just to paint the picture of why we need to make changes. I'm not coming to you asking you to solve the problem alone with this court fee bill. If we take the high end of assumptions here, a \$2 court fee increase has the potential to generate maybe, maybe up to an additional million dollars a year. That might be...that certainly is on the high end. And then the diversion possibility, you know, we're having...we have a hard time getting a number on diversion exactly. But if...you know, the high end would be \$500,000, but that's...that might even be probably stretching it to even call that a high-end number. That's \$1.5 million over the next 30 years. That would be \$45 million. The remaining changes are going to have to come through the retirement plan itself, and we have...I have a bill that we'll have a hearing on that looks at changing...again, we can only adjust for new hires, so looking at benefit changes for new hires and potentially a contribution rate increase for new hires. But it's going to take a combination of both additional funding from somewhere and reduction of benefits for new hires to ensure that we keep these...this plan sustainable into the future without having...this is a plan that we don't dip into General Funds, we haven't typically dipped into General Funds for, and I think...and as a member of the Appropriations Committee, I know members of that committee would like us to avoid dipping into General Funds to make up these differences. So I'm coming to you to ask to give your consideration to LB602. We did submit an amendment which basically sets up how it would work because this is a new, especially in the pretrial...specifically for the pretrial diversion. The county attorney would notify the Public Employees Retirement Board if there is a pretrial diversion program, and then it would be up to the county treasurer, or city attorney, as well, and city treasurer, city attorney, to submit the payment of the \$8 court fee to the NPERS. And just to give you an idea, right now, for instance, for STOP, right now...and they...most of the places that run a STOP program already collect \$48 in court fees but not the \$8 on the judges. The program costs to the individual range from about \$85 to a high of...I see \$223. So an additional \$8 fee on that...on those cases I don't think is necessarily out of line. And it's because of those programs that we're seeing less coming in on just traditional court fees. So I'd appreciate your consideration of this bill. Thank you. [LB602]

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SENATOR SEILER: Yes, Colby. [LB602]

SENATOR COASH: Thank you, Senator Seiler. Senator Nordquist, I just want to clarify a few things about this particular trajectory. First of all, the green bar, which represents the judges' contribution, right, even though that bar is getting higher as we go through time, the rate at which they contribute isn't changing, correct? [LB602]

SENATOR NORDQUIST: Right, so that is... [LB602]

SENATOR COASH: What is it currently, right now? [LB602]

SENATOR NORDQUIST: It's 9 percent for a new hire, so that was anyone who was hired after '04. If you were hired before '04, I believe it was 7 percent, and then they, after 20 years of service, drop off...I believe it goes from 9 to either 4 or 5 percent after 20 years of service. My bill that I am proposing, we're going to look. We didn't introduce it to have a contribution rate increase, but I think we'll look at that. And then also the drop-off we would...the bill proposes to eliminate the drop-off. So if a judge does stay more than 20 years, they'd just continue paying their contribution rate all the way out. [LB602]

SENATOR COASH: Is that rate...is the contribution rate set in statute or is that... [LB602]

SENATOR NORDQUIST: It is, yes, yep. [LB602]

SENATOR COASH: Okay, so... [LB602]

SENATOR NORDQUIST: So that's something we would look at increasing. But again, the courts have ruled previously that--there was a case in 2002--again, we can't change it for current employees unless we give a corresponding benefit enhancement. There's some discussion, because when we did a court fee increase or a...sorry. When we did a salary increase in the last biennium, we took away a sunset on...their contribution rate was actually supposed to go down a percent. We took away the sunset on that. The argument we made is that we gave you a salary increase as a benefit. Now whether... [LB602]

SENATOR COASH: We gave them 5 percent... [LB602]

SENATOR NORDQUIST: Right. [LB602]

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SENATOR COASH: ...in each of two years. [LB602]

SENATOR NORDQUIST: Right. Now whether that...the court would see that as, you know, their interpretation of a benefit enhancement, we don't know. [LB602]

SENATOR COASH: Okay. The...I'm kind of color-blind here. But the orange... [LB602]

SENATOR NORDQUIST: Yeah, orange or red, yeah. [LB602]

SENATOR COASH: Okay, the red there, so I just want to make sure this jibes with what I thought you said in your opening. Let's just take a look at 2014. [LB602]

SENATOR NORDQUIST: Right. [LB602]

SENATOR COASH: So does that red represent General Funds? [LB602]

SENATOR NORDQUIST: That's exactly right. So if you go to the previous page, it shows in a little more detail a five-year snapshot. We have in our budget right now, the Governor has in his budget and we have approved it in our preliminary for the time being, \$750,000 and \$624,000 each year for the next two years. If we did the court fee increase, that money, General Fund appropriation, wouldn't be necessary. It would be offset with the higher court fees. But you can see going forward it stays under a million dollars until we get a little further down the road. And without any substantial changes, it becomes a very big number. [LB602]

SENATOR COASH: Right. So my last question is, you'd mentioned that...and we've talked about this every year since I've been here... [LB602]

SENATOR NORDQUIST: Yeah. [LB602]

SENATOR COASH: ...as to why are the court fee numbers heading in a downward direction. And I know the Retirement Committee has tried to look at that. This committee has tried to look at that. And it's really come down to two things, right? More being diverted... [LB602]

SENATOR NORDQUIST: Right. [LB602]

SENATOR COASH: ...and more being waived. [LB602]

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SENATOR NORDQUIST: More being waived, and we've also heard speculation that, because we just have less State Troopers on the road, less tickets are being written. [LB602]

SENATOR COASH: Less tickets, okay. I wanted to clarify that because I thought we were talking about...I thought you were talking about...because the State Patrol has a similar plan. [LB602]

SENATOR NORDQUIST: Right. [LB602]

SENATOR COASH: It's not funded by court fees, but... [LB602]

SENATOR NORDQUIST: And their plan is having some challenges. We have a similar bill to make some benefit changes there. Their plan is having challenges because we don't...we haven't been hiring a lot of new troopers. So that...it's compounded... [LB602]

SENATOR COASH: Right, there's not a lot of contributors to their plan. [LB602]

SENATOR NORDQUIST: Right, right. [LB602]

SENATOR COASH: Out of those reasons that you outlined, less filings and more pretrial diversion, do you have...do we have any data that says it's 50/50, it's... [LB602]

SENATOR NORDQUIST: I don't think we do. We've really struggled on the pretrial diversion as we've looked at putting the court fee on that. The...only the juvenile pretrial diversion essentially collected, and that's through the Crime Commission, we've got some numbers from Douglas/Sarpy/Lancaster, but there's no centralized collection for adult diversion and there's no centralized accounting number for traffic diversion programs as far as the numbers. So we can't really tell how many that is and so... [LB602]

SENATOR COASH: Did the counties indicate or the cities indicate that there would be an increased cost to them if we started asking them to collect this money? [LB602]

SENATOR NORDQUIST: We haven't heard that yet. That may come out in the testimony today. I have talked to, you know, groups, and they may come and testify, from like the County Attorneys Association and stuff and, as far as I know, they haven't taken any opposition position or any position on the bill yet, so I don't know that it's necessarily that burdensome. Counties already submit for our county employees retirement plan to the Public Employees Retirement

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Board, so I don't know that the remittance of the payment would be an issue, just tracking and making sure we know, okay, here's how many diversion cases we had... [LB602]

SENATOR COASH: Right. [LB602]

SENATOR NORDQUIST: ...here's how much we have to collect and submit. [LB602]

SENATOR COASH: And just for the record, the reason we're talking about this is because this retirement system is a defined benefit plan. [LB602]

SENATOR NORDQUIST: Benefit, right, right. [LB602]

SENATOR COASH: So court fees go up and down. [LB602]

SENATOR NORDQUIST: Right. [LB602]

SENATOR COASH: Waivers go up and down. We're on the hook... [LB602]

SENATOR NORDQUIST: Right. [LB602]

SENATOR COASH: ...for a particular... [LB602]

SENATOR NORDQUIST: That's right. [LB602]

SENATOR COASH: ...retirement per judge... [LB602]

SENATOR NORDQUIST: Right. [LB602]

SENATOR COASH: ...no matter what the... [LB602]

SENATOR NORDQUIST: Right. [LB602]

SENATOR COASH: ...no matter what the market does, whatever, right? [LB602]

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SENATOR NORDQUIST: Yeah, right. And the challenge here is we have a court...a fixed-dollar court fee set in statute. I mean this is one of the main challenges. I mean, again, we'll look at the benefits side. But for the funding side, we have a fixed-dollar court fee set in statute. Normally, in a defined benefit plan, you have an employee-employer match that, as they get salary increases, both just grow with inflation. Well, here, not only is it not growing, it's actually been on a decline the last few years. So that's created a problem. [LB602]

SENATOR COASH: All right. I understand. Thank you, Senator Nordquist. [LB602]

SENATOR SEILER: Any other questions? Thank you. [LB602]

SENATOR NORDQUIST: Thank you. [LB602]

SENATOR SEILER: You're going to stay for closing? [LB602]

SENATOR NORDQUIST: Yes, yep, sure will. [LB602]

SENATOR SEILER: First proponent. [LB602]

BILL MUELLER: Mr. Chairman, members of the committee, my name is Bill Mueller, M-u-e-l-l-e-r. I appear here today on behalf of the Nebraska District Court Judges Association in support of LB602. I want to start out by thanking Senator Nordquist and Kate Allen, the legal counsel to the Retirement Committee. We've had numerous discussions with them on the issue of judges' retirement and what can be done to make sure that it is sufficiently funded. Senator Nordquist has explained fully what this bill does. The judges do support the bill. As Senator Nordquist testified, unlike other public employee retirement programs, the only employer contribution to the judges' plan is these court costs. There is no separate employer contribution. With the teachers, we have the school district making the employer contribution. For the State Troopers, we have the state through a General Fund appropriation making that contribution. For judges, and it's been this way as long as I'm aware, the state has met its obligation with court costs. You've heard a lot about those court costs not increasing, and they're actually decreasing. The Governor has put in his budget a General Fund appropriation, as Senator Nordquist testified, of \$750,000 in FY '15-16, and another \$624,000 in '16-17. If the bill before you were to pass, that General Fund appropriation might not be required. It certainly would not be required at the level that the Governor is recommending. I do think that we do need to address the question of pretrial diversion. Rightfully so, more and more people are going into pretrial diversion and we need to look at imposing a judges' retirement fee on those cases. I'd be happy to answer any questions that the committee may have. [LB602]

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SENATOR SEILER: Senator Krist. [LB602]

SENATOR KRIST: I just want to explore one statement that you made and just to establish the record. [LB602]

BILL MUELLER: Okay. [LB602]

SENATOR KRIST: There is an appropriation that's in the Governor's budget for X number of dollars. It's not important what it is. And it goes into next year, as well, so it's the two years of the biennium. And there is...this is basically an increase to those court fees that would pay for the judges' salary. The two of them would not operate separately, but the two of them, if one is there and passes it, it's level, this would not be necessary. Is that what I heard you say? [LB602]

BILL MUELLER: Yes, correct. [LB602]

SENATOR KRIST: Okay. [LB602]

BILL MUELLER: Correct. [LB602]

SENATOR KRIST: So for the record, and of course Senator Nordquist is on the Appropriations Committee, I had a bill similar, just to make the point for the record, that I asked for a particular amount of money to support an effort. It's not important. The Governor put that in his budget. I was assured by the Appropriations Chair that that was going to be appropriated. I IPPed my own bill because it was not necessary. So I would assume that that would be the same. I'm getting a head nod from Senator Nordquist, and he can probably deliver it in his closing. But it's important because a lot of times you see money coming and being appropriated for many, many places, and then it's pretty much overbudgeting, if you will. Do you want to make a comment? [LB602]

BILL MUELLER: Yes, I do. If the Legislature wants to increase the judges' retirement fee that is before you in LB602, I believe that would have to be a separate bill that would not be part of the appropriations process. So if you want to increase the current amount that's now \$6 to \$8 and you want to apply it to pretrial diversion cases, I think that we need a bill like LB602. If you are simply appropriating General Fund dollars to the retirement fund for judges, that could be part of the mainline budget. [LB602]

SENATOR KRIST: Okay, and that... [LB602]

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BILL MUELLER: I think we're saying the same thing. [LB602]

SENATOR KRIST: We are in different ways, which is usually the case, Bill, between you and I, but that's okay. [LB602]

BILL MUELLER: Often, oftentimes. [LB602]

SENATOR KRIST: (Laugh) But I guess, Senator Nordquist, in your closing you could address that and, being a member of Appropriations, I'd appreciate it. And, sir, I mean no disrespect. We've had many conversations with... [LB602]

BILL MUELLER: No, no. [LB602]

SENATOR KRIST: Thank you. [LB602]

SENATOR SEILER: I have one question. [LB602]

BILL MUELLER: Yes. [LB602]

SENATOR SEILER: I heard Senator Nordquist talk in terms of city attorneys and county attorneys may be paying the diversion program's \$8. Would that come from the county and the cities? Or is that just a hypothetical that isn't in...isn't covered by this bill or amendment? [LB602]

BILL MUELLER: I don't know that that's...I don't know what would happen. I'm guessing that what Senator Nordquist is saying is, if a participant in a pretrial diversion program were not able or did not pay the fee, that the city or the county might have to pay that fee. [LB602]

SENATOR SEILER: That's what I heard. [LB602]

BILL MUELLER: That's what I heard. [LB602]

SENATOR SEILER: I just don't want any unfunded mandates flying back at us on that type of a scenario. [LB602]

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BILL MUELLER: Well, and that is a real issue with these retirement fees because currently, if the criminal defendant does not pay the costs, including this, that is a responsibility of the county and that is a significant dollar amount that, if it's not paid, then it reduces the amount of money going into the Judges Retirement Fund. [LB602]

SENATOR SEILER: Right. Yes, Senator. [LB602]

SENATOR COASH: So why are the judges...it's like they're shooting themselves in the foot. They're waiving a fee that pays for their retirement. We've got to...Judges, stop waiving the fee. [LB602]

BILL MUELLER: We've had many discussions on this very issue. [LB602]

SENATOR COASH: Thank you. [LB602]

SENATOR SEILER: Any other questions? Thank you. [LB602]

BILL MUELLER: Thank you. [LB602]

SENATOR SEILER: Next proponent. Please state your name and spell it for the record. [LB602]

PHYLLIS CHAMBERS: (Exhibit 3) Okay. Chairman Seiler and members of the Judiciary Committee, my name is Phyllis Chambers. I am the director of the Nebraska Public Employees Retirement Systems, and I'm here to testify in support of LB602. The Public Employees Retirement Board is responsible for the administration of the Nebraska Public Employees Retirement Systems, which consists of the schools, the judges, the Patrol, the state employees, and the county employees. It is the PERB's fiduciary duty to monitor the assets and liabilities of the plans to protect the benefits in trust for our plan members. The PERB is authorized by Nebraska law to have an actuarial evaluation performed for the school, judges, and Patrol plans, which are the defined benefit plans, on an annual basis to determine the plan's funding levels and their funding requirements. Any unfunded liability is determined by the actuaries and then is amortized over a 30-year period. If there are not sufficient contributions coming in and/or investment earnings during the year to make the amortization payment, then an additional contribution is required--we call it the "ARC"--to be paid by the state each year. The Judges Retirement Plan is our smallest plan and it has 153 active members, 175 retirees and beneficiaries receiving monthly benefits. The judges' plan is funded primarily by member contributions and court fees, as has already been stated. Last year, members contributed \$1.5

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million in contributions, and court fees contributed \$3.1 million to the judges' plan. That's almost two to one. The judges' plan is currently funded at 93 percent due to an 18-percent investment return last year and the additional required contribution that the state made of \$803,000 last year. So without that, the funding level would be much lower. Over the past 11 years, member contributions have increased approximately 4 percent annually as a percentage of payroll. So as Senator Nordquist gave you the chart that shows the graph going up, that shows the increase in payroll. The actuarial value of assets and the actuarial accrued liabilities though are also going up as those benefits are accruing. So the court fees, however, have declined and leveled off since 2010. This decline is our major funding source and is creating a funding shortfall. To illustrate, the actuarial value of assets in the latest actuarial report of the judges' plan was \$144.7 million. [LB602]

SENATOR SEILER: Ma'am. [LB602]

PHYLLIS CHAMBERS: Yes. [LB602]

SENATOR SEILER: I don't mean to be rude. [LB602]

PHYLLIS CHAMBERS: Yes. [LB602]

SENATOR SEILER: But your red light is on. [LB602]

PHYLLIS CHAMBERS: Oh. [LB602]

SENATOR SEILER: And I forgot to tell you that when the red light comes on, stop your testimony. [LB602]

PHYLLIS CHAMBERS: Oh, okay. [LB602]

SENATOR SEILER: And so I'm telling the rest of you testifiers the same. [LB602]

PHYLLIS CHAMBERS: All right. All right. [LB602]

SENATOR SEILER: But some senator might ask you to finish. Thank you. [LB602]

SENATOR KRIST: Just give us the...your bottom line. [LB602]

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PHYLLIS CHAMBERS: Okay, the bottom line: Looking at the actuarial projection model, it shows that the state contributions will increase to approximately \$1.1 million by 2019, \$3.3 million by 2025, \$5 million by 2030, \$6.9 million by 2035, \$9.2 million by 2040, and \$10.8 million by 2043, over the 30-year term. So we are in support of having these fees increased and the diversion fees added to the judges' plan. And I'm testifying...we haven't taken a formal vote from the Public Employees Retirement Board because of the dates of the bills being introduced and the date of this hearing and our board meetings. But I am here to testify there's a general consensus in support of this legislation. Okay. [LB602]

SENATOR KRIST: Thank you. [LB602]

PHYLLIS CHAMBERS: Okay. [LB602]

SENATOR SEILER: Thank you. Any further questions of this witness? Seeing none, thank you for your testimony. [LB602]

PHYLLIS CHAMBERS: Thank you. [LB602]

SENATOR SEILER: Any further proponents? Any opponent? Anybody in the neutral? Jeremy, you may close. [LB602]

SENATOR NORDQUIST: (Exhibit 4) All right. Thank you, members of the committee. And to answer Senator Krist's question, yes. So should this bill move forward, we would simply take out the General Fund appropriation in the budget that we now have in the preliminary that was also in the Governor's budget because what we do every year is the actuary says, here's what you're short, if you are short, and we usually, outside the judges' plan, we always meet that with General Fund if it's in the school or in the Patrol plan. But this is a plan we have been reluctant to put General Funds in because we see the court fee as that match. And it's...you know, at one point we were talking about should we introduce a bill to index the court fee to inflation so it always grows from this point forward and we don't have to come back every four years or whatever and make an increase, and that's certainly an option. I know...I believe the committee got a letter from NACO that states their opposition. Their concern is that when the fees are waived, the counties do pick it up and that would be the same case with the county...with the pretrial diversion. I would think the vast majority of those are in...you know, would be on minor traffic stops, and I don't know how many of those...I mean the cost to do those classes are \$100 or \$200 and I don't know how many of those ultimately are waived anyway. I did bring a bill to this committee last year that said for the judges, the portion that goes to the judges' retirement, because it's a part of the cost of operating the court, that that couldn't be waived, but that bill didn't...it didn't move forward that that fee couldn't be waived. And I believe there is a bill

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coming forward to this committee, too, that Senator Bloomfield has, LB651, which says counties wouldn't, if they do get waived, counties wouldn't have to make up that difference. I would very much caution you on that bill because that would have pretty big impacts on the amount of money that does go into our Judges Retirement Plan. So thank you. [LB602]

SENATOR SEILER: Okay, any questions? Bob--Senator Krist. [LB602]

SENATOR KRIST: So, yeah, thank you, Chair. And, Senator Nordquist, so to be clear, the better option here is to save the General Funds, put this...push this bill forward. [LB602]

SENATOR NORDQUIST: Right. [LB602]

SENATOR KRIST: Indexing is always an issue, I know. But your comment is intriguing that last year you brought one forward that said that portion that goes into this fund is not waivable. [LB602]

SENATOR NORDQUIST: Right. [LB602]

SENATOR KRIST: Obviously, that's again asking or interfering with judicial discretion,... [LB602]

SENATOR NORDQUIST: Right, right. [LB602]

SENATOR KRIST: ...which is a very touchy issue. But I think we as a committee should consider that as well in terms of... [LB602]

SENATOR NORDQUIST: Right, and... [LB602]

SENATOR KRIST: And would you be...obviously, you took...you brought it last year. [LB602]

SENATOR NORDQUIST: Yeah, I can provide that again to the committee. [LB602]

SENATOR KRIST: So you would not see a committee amendment to that effect being out of line? [LB602]

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SENATOR NORDQUIST: No. If that committee is interested, we can get the information from that last year. And also, I just want to make it clear that, again, the Retirement Committee will...you know, this isn't just me coming to you asking to solve our problems. We will be working on the benefits side for new hires and scaling...you know, looking at remodeling that a little bit, so. [LB602]

SENATOR KRIST: Thank you. [LB602]

SENATOR NORDQUIST: Yep. [LB602]

SENATOR KRIST: Thank you, Chair. [LB602]

SENATOR SEILER: I assume the amendment that was submitted also came from your office? [LB602]

SENATOR NORDQUIST: Yes, that's right. Yep. [LB602]

SENATOR SEILER: And you're asking it to be forwarded also. [LB602]

SENATOR NORDQUIST: Yeah, so that basically just cleans up the language to clarify that...who is responsible for doing what. The county attorney would notify PERB saying, we have pretrial diversion, and then the county treasurer or city treasurer would make the payments. [LB602]

SENATOR SEILER: Okay, thank you. [LB602]

SENATOR NORDQUIST: Yes. [LB602]

SENATOR SEILER: Subject to the letter that we received being added to the transcript, this will close the hearing on LB602. And, Senator Nordquist, I believe you have the bill, LB647. [LB602 LB647]

SENATOR NORDQUIST: Yep. That's right, thank you. [LB647]

SENATOR SEILER: You may open. [LB647]

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SENATOR NORDQUIST: (Exhibits 1-4) Great. Thank you, Chairman Seiler and members of the Judiciary Committee. For the record, my name is Jeremy Nordquist. I represent District 7, which covers downtown and south Omaha, here today to introduce LB647, the intent of which is to ensure maximum availability of suitable placements for children who have been removed from their home due to child abuse or neglect. LB647 was introduced because I quite frankly believe all Nebraska children deserve to be part of a loving family. And our current policy of not allowing qualified parents to serve as foster placements hurts kids, allows them to languish in government care, and deprives them of loving, nurturing homes that they so desperately need. Foster care should be based on whether or not a parent can provide the love, safety, security, and stability that all children deserve. LB647 will protect the best interests of children, allowing greater opportunities for kids to find loving, stable families. LB647 specifically prohibits discrimination by the Department of Health and Human Services based on race, color, religion, sex, sexual orientation, gender identity, disability, marital status, or national origin when determining the suitability of an out-of-home placement for a juvenile or when issuing a foster care license. Currently, the department uses a 1995 memo that says that, since the issue of sexual orientation in foster care is not addressed in statute or regulation, children will not be placed in homes of persons who identify themselves as homosexuals or where unmarried, unrelated adults reside together. This bill is to provide clarity in statute that it will no longer be a policy of the state to discriminate based on sexual orientation and marital status. I'd like to make an important distinction though in this language. There is a difference between determining the suitability of a placement and the considerations that are utilized to determine whether or not a specific child is in place. The bill clarifies that actual child-specific decisions about placement shall be based upon the health, safety, and well-being of the child, taking into consideration requirements of the federal Fostering Connections to Success and Increasing Adoptions Act. So a person can be suitable for a foster care placement. We don't eliminate them. But when it comes down to the specific placement of the child, specific conditions can be taken into consideration. So, for example, think about somebody with a disability. The...we're not rule...we couldn't...we wouldn't rule out somebody with a disability based on that disability alone, but when it comes time to make the placement, if for some reason that disability would not allow that person to provide and to meet the needs of that child, then that placement wouldn't take place. So we are not saying HHS...we're not taking away the ability of HHS to do that. Foster care by loving families is without a doubt the best choice for our vulnerable children, rather than institutional care, group homes, or other forms of congregate care. All appropriate placements are needed in our state. As of December 2014, there were 3,000 children in out-of-home care. Of that number, 2,600 were in foster-care homes. Twenty-three percent of those children had been in out-of-home care for two years or longer. And this is a number from 2012, but at that time 50 percent of the children in out-of-home care had been in four or more placements in their lifetime. And the Foster Care Review Office lists a number of reasons for multiple placements: not having appropriate placements available; some foster parents have been overcrowded, making it difficult to provide each child with the needs; and sometimes the mixture of children in placement is inappropriate.

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By passing this bill, we can make sure the maximum number of placements are available. Now we may hear opponents say that...oppose this bill because it includes prohibition of discrimination against individuals, LGBT individuals, and unmarried families. I've included, handed out today evidence that shows from a number of organizations, like the Child Welfare League of America, the American Academy of Pediatrics, and the American Psychological Association, that would stand to support this legislation, that overwhelming conclusion of mainstream child health and welfare organizations and associations is that diverse and nontraditional families can be as successful as any other family. And virtually all valid research on the topic shows that gay and lesbian parents are capable and qualified as straight parents to provide a healthy, loving home. We know what makes good parenting: providing a loving, stable home; making lunches; changing diapers--as a father of a four-month-old, certainly aware of that--reading bedtime stories; putting Band-Aids on "owies." Good parenting is good parenting and it's not reserved just for Nebraskans who are straight or who are married or those of a specific race or religion. This bill would allow DHHS to do its job: to find as many safe placements as possible. We are certainly out of the norm in the country. We, I believe, and I don't have it written down here, maybe somebody behind me can clarify, the last...I think we are one of only two states that have a similar prohibition in place. It's time to change that. Thank you. [LB647]

SENATOR SEILER: Senator Coash. [LB647]

SENATOR COASH: Thank you, Senator Seiler. Senator Nordquist, I'm glad you brought this. I want to talk about this memo for a minute. [LB647]

SENATOR NORDQUIST: Yeah. [LB647]

SENATOR COASH: This memo I guess...it came from the executive branch in 1995,... [LB647]

SENATOR NORDQUIST: Yeah. [LB647]

SENATOR COASH: ...right, so three administrations ago. Can the current administration rescind this memo? [LB647]

SENATOR NORDQUIST: I certainly believe so. [LB647]

SENATOR COASH: And if they did, would this bill be necessary? [LB647]

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SENATOR NORDQUIST: No. And if anyone behind me needs to clarify that, but I...that's my understanding,... [LB647]

SENATOR COASH: Okay. [LB647]

SENATOR NORDQUIST: ...that it is strictly a memo that has guided their actions. [LB647]

SENATOR COASH: Are you aware, Senator Nordquist, that HHS currently does make placements with men and women who are gay in foster placement? [LB647]

SENATOR NORDQUIST: I am aware that it's...that they have, that it's been extremely rare, and that it just shows kind of the arbitrary nature of having a policy like this. [LB647]

SENATOR COASH: So they do... [LB647]

SENATOR NORDQUIST: They have violated that memo. [LB647]

SENATOR COASH: When I say "they," I mean... [LB647]

SENATOR NORDQUIST: Right. [LB647]

SENATOR COASH: ...HHS violates or has violated the very memo that we seem to be operating under from the mid '90s. [LB647]

SENATOR NORDQUIST: That's my understanding, yeah. [LB647]

SENATOR COASH: I want to...this is a technical question. In Nebraska we've got agent...we have lots of different types of foster care, right? [LB647]

SENATOR NORDQUIST: Um-hum, um-hum. [LB647]

SENATOR COASH: So if I want to become a foster parent, for example, I can go to the state of Nebraska and I can say I want to be a foster parent and basically have a direct contract with HHS, right? [LB647]

SENATOR NORDQUIST: Right. [LB647]

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SENATOR COASH: Or, and I'll use an example, a great example from an agency in our...in my community. I could go to a place like CEDARS Home for Children and I could say, I would like to be a foster family for you. [LB647]

SENATOR NORDQUIST: Right. [LB647]

SENATOR COASH: And so my relationship isn't with the state but it's with the child-caring agency, however they're licensed, right? [LB647]

SENATOR NORDQUIST: Right. [LB647]

SENATOR COASH: So my question is, if you know, how this bill affects the difference between those two types of foster families,... [LB647]

SENATOR NORDQUIST: Right. [LB647]

SENATOR COASH: ...because they're both foster families but one has a direct relationship with the state and one has a relationship with a private, nonprofit organization. How does this policy that we're...from '95 intersect between those two types of foster placements? [LB647]

SENATOR NORDQUIST: You know, the specific language says the department, but I don't know if that means...what that means for their contracts. And I remember this issue coming up when we had the bill last year and I don't remember how we...what we came to on it because we did talk about it. And this committee actually did advance a version of this bill last year to the...two years ago to General File and we just didn't act on it in General File. But I would have to double-check on that. [LB647]

SENATOR COASH: I think that's an important part of this discussion because I'm trying to figure out the reach that HHS has with this memo. Does it reach just to the foster families that are... [LB647]

SENATOR NORDQUIST: Right. [LB647]

SENATOR COASH: ...contracted directly to them? [LB647]

SENATOR NORDQUIST: Right. [LB647]

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SENATOR COASH: Or does it go beyond them, through the agency? I mean there are...there's dozens of agencies who do foster placement. [LB647]

SENATOR NORDQUIST: Right. [LB647]

SENATOR COASH: And I want to know... [LB647]

SENATOR NORDQUIST: The impact, right. [LB647]

SENATOR COASH: ...clearly if this memo affects those agencies in the same way it might affect a family who would contract directly with the department. [LB647]

SENATOR NORDQUIST: Right, right. We'll...I'll find an answer, either today or shortly after today. [LB647]

SENATOR COASH: Okay, thank you, Senator Nordquist. [LB647]

SENATOR SEILER: Senator Krist. [LB647]

SENATOR KRIST: I also... [LB647]

SENATOR PANSING BROOKS: Can I just interject? Could you speak a little bit louder? [LB647]

SENATOR NORDQUIST: Yeah, yes. [LB647]

SENATOR PANSING BROOKS: I think people in the back are having trouble hearing what you're saying. [LB647]

SENATOR NORDQUIST: Please, sorry, yes. Right, absolutely. [LB647]

SENATOR PANSING BROOKS: So thank you. [LB647]

SENATOR KRIST: Thank you. Thank you, Chair. I'm going to follow along the same lines as Senator Coash, but I'm going to go a little deeper into this memo. I'm going to bet, and I'm not a betting man, but I'm going to bet you that this was not done in compliance with the APA. I'll bet

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you that this didn't have a public hearing. I'll bet you that it didn't have public feedback.
[LB647]

SENATOR NORDQUIST: Right. [LB647]

SENATOR KRIST: And I'll bet you it's illegal. [LB647]

SENATOR NORDQUIST: Right. It's an internal memo. I mean it's not regulation. [LB647]

SENATOR KRIST: So they don't even have to rescind it. [LB647]

SENATOR NORDQUIST: Yeah. [LB647]

SENATOR KRIST: You could imply that what NFC and other agencies like CEDARS might do, they would not be bound by this, nor would the state be bound by this, if it's not in compliance with the APA. [LB647]

SENATOR NORDQUIST: Right. [LB647]

SENATOR KRIST: And I say that to make everyone aware we saw this all summer long where agencies, departments--Department of Corrections, Health and Human Services--on Tuesday it's okay, on Wednesday we've got a policy change... [LB647]

SENATOR NORDQUIST: Right. [LB647]

SENATOR KRIST: ...that directly relates to the Administrative Procedures Act that should have had a hearing. It should have had public access. It should have had feedback. It should have had due process. [LB647]

SENATOR NORDQUIST: Right. [LB647]

SENATOR KRIST: So I think Senator Coash is absolutely right. It's a bigger question than just...
[LB647]

SENATOR NORDQUIST: That's right. [LB647]

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SENATOR KRIST: ...is the department doing it, because I do...I am aware that there have been placements in these...in homes that do indeed provide quality care for... [LB647]

SENATOR NORDQUIST: Right. [LB647]

SENATOR KRIST: So whether you're on the side of the issue or you're not on the side of the issue, it's happening right now and this thing isn't worth the paper that it's written on. Would you like to comment on that? [LB647]

SENATOR NORDQUIST: No, I would just completely agree with you on that. [LB647]

SENATOR KRIST: Thank you. [LB647]

SENATOR NORDQUIST: And I think we need clarity in either law or regulation on it. [LB647]

SENATOR SEILER: I have one question. [LB647]

SENATOR NORDQUIST: Yeah. [LB647]

SENATOR SEILER: Has there been any litigation on this memorandum? [LB647]

SENATOR NORDQUIST: There is and there...I believe there will be somebody testifying after me to discuss it. [LB647]

SENATOR SEILER: Good. Okay. [LB647]

SENATOR NORDQUIST: Any other questions? All right, thank you. [LB647]

SENATOR SEILER: Thank you. The first proponent. I believe some people came in after I instructed the group. If you're here, you're going to testify, we need you to fill out that--and I'm color-blind, so I'll assume it's the testifier instruction--fill that out so that you can give it to our clerk so that we can get your name and address and everything and you're part of the record. If you do not want to testify but you want to be part of the record, there's a sign-up sheet outside and you can sign up there, shows you're part of the record, shows you're either in support or against. And that will be made part of the record upon closing. Excuse me for interrupting you. Go ahead. [LB647]

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AMY MILLER: As long as I still have three precious moments, Senator. (Laughter) [LB647]

SENATOR SEILER: You haven't been turned on yet. Has she? Start her over if you haven't. [LB647]

AMY MILLER: (Exhibit 5) Good afternoon, Senators. My name is Amy Miller. That's A-m-y M-i-l-l-e-r. I'm legal director for the ACLU of Nebraska, a nonprofit, nonpartisan organization that works for constitutional rights. The Fourteenth Amendment to the Bill of Rights promises equal protection for all, and there's not a footnote that says, but not gay or lesbian people. That is one reason why we are in court right now challenging the memo that you have in front of you. That placement, Senator Coash, affects both public and private because it's the state that issues these licenses to couples. So even if someone goes through a private agency, fundamentally, they still have to have the license, not unlike a driver's license. AAA may give you driver's ed licenses...lessons, but you still need that license from the state of Nebraska. Now, Senator Krist, you're absolutely right. There was no rule-making process and, yet, we are in a position where this is actively hurting children in Nebraska every day. Nebraska not only is one of only two states with a clear ban on gay or lesbian people being foster parents--the other is Utah--we also are the state with...we're number one or number two, depending on which study you look at, for the most number of children per capita out of placement. We have 3,000-plus children needing foster homes while we're simultaneously denying qualified folks. You'll hear after me one of my clients in that litigation. Joel and Todd are part of the lawsuit. They applied. They passed the background test. They passed the home inspection. We're talking about a decorated military veteran. And they were rejected solely because they are in a same-sex relationship. Now we have tried negotiating with the department. But that memo, despite the fact that it's old and despite the fact that it went through no rule-making process, is still in effect. Joel and Todd still have no license. That memo is still on the Web site for the Department of Health and Human Services, sending a chilling effect for any gay or lesbian person that goes on the site, thinking, should I apply, should I be a foster parent. When we're in a situation where qualified people are being turned away as foster parents, of course, I'm in court, arguing the Fourteenth Amendment protects the rights of those applicants. But the real people being hurt are the children, given the fact that a child who is not given a foster home, instead, is still going to have a roof over their head but it's going to be a group home, it's going to be a juvenile facility, it's going to be some type of institutional setting. Joel and Todd are there, willing to take a child and say to them, how was your day at school, can I make you a peanut-butter sandwich, do you need any help with your homework? And that's where kids thrive. We could moot out the lawsuit easily by passing this law. It could be easily mooted by having this administration repeal the memo outright. Or I could win my lawsuit. We're set for a motion for summary judgment arguments in April, late April, and the trial or final judgment likely to come then late this spring. We thank Senator Nordquist for his work and we hope that we can move this bill forward so that we can help children and make sure that we are providing the best care for all kids in foster care. [LB647]

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SENATOR SEILER: Any questions? I have one: name of the case. [LB647]

AMY MILLER: The name of the case, it is footnote 1, page 2. [LB647]

SENATOR SEILER: Okay. [LB647]

AMY MILLER: It's Stewart v. Heineman. It's pending in Lancaster County District Court. And if you want the case number, I can be that nerdy and give it to you. [LB647]

SENATOR SEILER: No, that's fine. [LB647]

AMY MILLER: All right. If anyone is interested in seeing any of the documents out of the case or interested in any of the briefs, please feel free to let me know and we're happy to e-mail any of those materials to you. [LB647]

SENATOR SEILER: That was my next question. Are you at the briefing stage or have you passed that and you're at the argument stage? [LB647]

AMY MILLER: Well, we had briefing on the motion to dismiss that was initially filed by the state, and the judge allowed us to move forward. So we now have finished discovery. [LB647]

SENATOR SEILER: How about on your summary judgment? [LB647]

AMY MILLER: Motions for summary judgment briefs are due in mere weeks with the actual hearing on April 22. [LB647]

SENATOR SEILER: Okay. [LB647]

AMY MILLER: As soon as the briefs are done, I'm certainly happy to send them to you. But if you want any of the materials from the motion-to-dismiss tussle, I can also forward those to you. [LB647]

SENATOR SEILER: Have affidavits been filed? [LB647]

AMY MILLER: I don't think we have yet. [LB647]

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SENATOR SEILER: Okay. Any further questions? Senator Williams. [LB647]

SENATOR WILLIAMS: Are we going to hear from Joel and Todd? [LB647]

AMY MILLER: They were able to make it here today. I don't know that both are going to testify. At least one will testify. They were scooting here after just having gotten married, so, yes, you'll be hearing from either Joel or Todd. [LB647]

SENATOR WILLIAMS: Okay, then I will hold my question. [LB647]

SENATOR SEILER: Any further questions? Thank you very much. Next proponent. [LB647]

JOEL BUSCH: Good morning. My name is Joel Busch and this is now my husband, Todd Vesely. Okay. We started this... [LB647]

SENATOR SEILER: Can we get him a chair? [LB647]

TODD VESELY: I can grab one of these. [LB647]

SENATOR SEILER: That would be fine. I know it's only three minutes, but... [LB647]

TODD VESELY: Thank you. [LB647]

SENATOR SEILER: Thank you. [LB647]

JOEL BUSCH: We started this process about seven years ago. We went to HHS and asked them if we could be foster parents. At that time, they did not say no. So we went through and we took eight weeks of classes. We did our home studies. We did our background check. We did our...everything that was possible. Everything passed. The only thing we haven't received is our right to foster. We did not get our license to foster. So you're talking about being with CEDARS or other organizations. We had to be fosters through the state of Nebraska in order to become a foster parent for a nonprofit organization. That did not happen with us. We did everything we can. We have a house that we can provide safekeeping for kids that we can provide a safe home, a loving home, a room of their own, a bed for them, food for them, whatever these people need. We're doing this for the kids. It's not for us. Okay? We know we can't have kids, but we know we can foster kids and make a better life for them. So that is why we are here. We started this case with Amy here. And so it's been a fight for us for over seven years now in Nebraska to do this,

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all just because of a memo says we're gay, we cannot foster. That's the only reason that we're not fostering today. That's all I have. Thank you. [LB647]

SENATOR SEILER: Senator Pansing Brooks. [LB647]

SENATOR PANSING BROOKS: First, congratulations on your marriage. [LB647]

TODD VESELY: Okay. [LB647]

SENATOR PANSING BROOKS: And also, I was just interested, could you give us a little summary of what the classes entail? [LB647]

JOEL BUSCH: The classes actually are pretty good. We go through and you find out what kind of kids you foster. There's such a range of kids, emotionally or physically, depending on (inaudible). They do...we try to go through and do our family background so we can tell them what a family is really like--these kids do not have a family or do not know who their background is--introduce that to them. We find out what kind of cultures these kids are going to want, you know, because we're not going to force our religion, our cultures, on them. We want to make their culture the culture that they want to learn in. So it's an eight-week process. We had homework to do every night. I mean, before we'd go to class the next time, we had homework to turn in, and we have those books to prove that we did all this homework for them. It's a very...that was very intense. It was very fun. Our instructors were very good. They were for us becoming foster parents. Our home-study people were for us becoming foster parents. It's just that HHS wouldn't give us a license for it. They never met us personally. They wouldn't come to our home, but...they had people come to our home, but they said no. [LB647]

TODD VESELY: After we went through all the classes and everything, we passed the background checks and all that stuff, that was when we were told, no, you can't be foster parents because you're a gay couple, not at the beginning. [LB647]

SENATOR PANSING BROOKS: And who specifically told you that? [LB647]

TODD VESELY: The instructor...well, no, it wasn't the instructor. [LB647]

JOEL BUSCH: HHS wouldn't license us. I'm sorry. [LB647]

TODD VESELY: HHS is the ones that... [LB647]

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SENATOR SEILER: Excuse me, Todd. [LB647]

TODD VESELY: Yes, sir. [LB647]

SENATOR SEILER: Would you state your name and spell it, please, for the transcript. [LB647]

TODD VESELY: Yes, sir. My name is Todd Vesely. Last name is V-e-s-e-l-y. [LB647]

SENATOR SEILER: Thank you. Go ahead. [LB647]

JOEL BUSCH: So we weren't getting our license, so we contacted HHS. And they said, because we're a gay couple, we would not get the license. [LB647]

TODD VESELY: Because of the memo that's in place. [LB647]

SENATOR PANSING BROOKS: And when was this? [LB647]

JOEL BUSCH: Nineteen...it was seven years ago, so... [LB647]

TODD VESELY: 19? [LB647]

JOEL BUSCH: Or 2007, I'm sorry, 2007. [LB647]

TODD VESELY: (Inaudible) in 2007. [LB647]

SENATOR PANSING BROOKS: And have you made any future attempts subsequent to that denial? [LB647]

JOEL BUSCH: We have, but then nothing happened. So that's why we got the lawsuit going, to make an attempt, hopefully a faster attempt, because we're just two people. Now we have other couples in on this lawsuit with us. [LB647]

SENATOR PANSING BROOKS: Thank you. Thank you for your efforts on this. [LB647]

SENATOR SEILER: Any further? Senator Williams. [LB647]

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SENATOR WILLIAMS: Yes. Just one question, and I'm not trying to throw a legal trick out here, if you would advise your clients whether to answer this question or not. Was there any possibility that they gave you any other reason than your sexual orientation for your inability to have foster placement? [LB647]

JOEL BUSCH: No. [LB647]

TODD VESELY: Absolutely not. [LB647]

SENATOR WILLIAMS: Thank you. [LB647]

JOEL BUSCH: Because we had...our home-study people were for us. Everybody was for us,... [LB647]

SENATOR WILLIAMS: Thank you. [LB647]

JOEL BUSCH: ...,the home inspection, yes. [LB647]

SENATOR SEILER: Seeing nothing further, thank you for your testimony. [LB647]

JOEL BUSCH: Thank you. [LB647]

TODD VESELY: Thank you. [LB647]

SENATOR SEILER: Further proponent. [LB647]

BECCA BRUNE: (Exhibit 6) Good afternoon, Senators. My name is Becca Brune, B-e-c-c-a B-r-u-n-e, and I am here as the child welfare program associate from Nebraska Appleseed. And on behalf of Nebraska Appleseed, I am here to testify in support of LB647. We support this bill, as it will create more placement options for children in foster care. Although Nebraska has made progress towards having a sufficient number of foster homes over the last year, there's still not enough. According to data from the most recent Kids Count report, there are 1.25 foster children for every foster home in the state. When children in foster care are unnecessarily placed in a congregate care facility, research shows that those children have worse long-term outcomes than their peers. And another study estimates that having to place youth in emergency shelters or group homes, which are relied upon when foster homes are full, instead of allowing them to be placed with same-sex couples costs Nebraska between \$400,000 and \$700,000 each year.

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Children in foster care need loving and stable homes. Research shows that children raised by same-sex couples are similar to those raised by heterosexual couples in terms of psychological well-being and overall development. The things that have been shown to have an impact on a child's well-being are factors like parental stress, parenting strategies, and couples' relationship satisfaction, which also have been proven to be unaffected by a parent's sexual orientation. Furthermore, Nebraska Appleseed has consistently supported equal and fair treatment under the law. For these reasons, we support the efforts of Nebraska ACLU as they work to change this policy through the court system. But we hope that LB647 might enable this matter to be addressed more expeditiously for the benefit of children. In conclusion, we support LB647 because it is good for kids and good for Nebraska. We thank the committee and respectfully request that LB647 be advanced. [LB647]

SENATOR SEILER: Any questions of this witness? Seeing none, thank you for your testimony. Oops, I see three people coming up. [LB647]

MARVIN BINNICK: Sorry. I beat you. (Laughter) Okay. I'm really nervous, so bear with me. My name is Marvin Binnick. Last name is B-i-n-n-i-c-k. Would you like my first name spelled? No? Okay. I am here today to speak in support for LB647, although I would like to express my support of LB586 and LB648. I want to start off by asking, why are we even talking about this? That is my question. Why are we even talking about this? It is ridiculous that in 2015, in the USA, in the land of the free, in a country I served in the Navy for, being able to love and marry who you want is still an issue. I'm so happy that same-sex marriage is now legal in 36 states, but I'm ashamed that it has taken us this long. I was a foster child. I spent nearly a decade floating in the system. I lived in five group homes--sorry, really nervous--and eight foster homes during that time span. Due to the lack of foster parents in Lincoln during that time, I had to live in foster homes or group homes in Hastings, Ashland, Crete, Friend, Blue Springs, and Omaha. What I needed most and what I sought for was a family that would care for me and love me. I wanted a family that would treat me like one of their own. I'm lucky because I ended up finding that in the last foster home I was in with Tim and Michaela Hahn (phonetic) when I was 15 years old. And since then, for the last ten years, they have been my family. I love them and I know they love me just as much, most likely more. When I was in search for the right family for nearly ten years, I wouldn't have cared if I lived in a foster home where my parents were part of the LGBTQ community. As long as they advocated for me, cared for me, and loved me, I would have been happy. Living in a foster home where the foster parents were lesbian, gay, bisexual, trans, or queer was never a possibility though. I instead lived in foster homes with straight, married mothers and fathers. I instead lived in foster homes where I was treated differently. I lived in homes where the foster children were separated and couldn't interact with the biological children. I lived in homes where I was viewed as dangerous, harmful to others, for simply being a foster child. I lived in homes where I was physically abused, where I was mentally abused, where I was called a slew of horrible names mixed with curse words. In those homes, the parents

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were supposed to care for me and love me, but instead they were traumatizing. Now I'm not saying all foster parents that happen to be straight are bad or abusive. I am also not saying that all gay or lesbian couples would be good or healthy foster parents. What I'm saying is, if you are a genuinely good person and you want to care for a child that needs it, your sexual orientation should be a nonfactor. I know one thing. Currently in the state of Nebraska, gay or lesbian couples that want to adopt or be foster parents have to make one of two sacrifices: hide their sexual orientation and, by doing that, sacrifice a big part of who they are as a person so they can care for a child; or sacrifice the ability to care for a child or adopt or be foster parents so they can be free with who they really are. If someone is willing to make those kind of sacrifices, I would want them as my parent. I urge you today to vote to advance LB647. Thank you for your time. [LB647]

SENATOR SEILER: Any questions of this witness? Senator Pansing Brooks. [LB647]

SENATOR PANSING BROOKS: I just wanted to thank you for your courageous testimony and for coming forward today. It took a lot and it's very poignant to hear it from people who go through the whole system. And I'm sorry it was such a difficult time, but I'm glad you have somebody wonderful now. [LB647]

MARVIN BINNICK: Thank you. [LB647]

SENATOR PANSING BROOKS: Thank you. [LB647]

MARVIN BINNICK: Thank you. [LB647]

SENATOR SEILER: Senator Morfeld. [LB647]

SENATOR MORFELD: I have to go to another hearing, but I also wanted to thank you for your courage to come out today. It's really important for us to hear from stories from people affected by things like this. So thank you very much. [LB647]

MARVIN BINNICK: Thank you. [LB647]

SENATOR SEILER: Seeing nothing further, thank you for your testimony. Further proponent. You may proceed. [LB647]

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LINDA COX: (Exhibit 7) Good afternoon, Senator Seiler and members of the Judiciary Committee. My name is Linda Cox, C-o-x. I am the research analyst for the Foster Care Review Office. As you'll see in the testimony that's being handed out to you, I am speaking today on behalf of the executive director, Kim Hawekotte, who was unable to be here. Just to give a brief introduction to who we are, the Foster Care Review Office is an independent state agency. We're not affiliated with the Department of Health and Human Services, the courts, or any other child welfare entity. Our role is to independently track children in out-of-home care, review their cases, collect and analyze data related to those children, and make recommendations on conditions and outcomes for children in out-of-home care, including any needed corrective actions. Our latest annual report was released December 1 and is being handed out to you. Due to...we were able to provide some intensive data from January 1 through June 30, 2014. And I'd just like to highlight some of the key points here and the reasons that we are needing to have more foster homes available. On June 30, there were 3,029 DHHS wards in out-of-home care. It's about the same number today. Fifty-three percent had been in care for less than a year; but more importantly, 23 percent had been in care for over two years. Thirty-three percent of these children have been in four or more lifetime placement changes. In our annual report, pages 89-92, we document the reasons. And some of those are because they've been placed where a bed is available as opposed to the best placement for that individual child and their needs. We are advocating that every placement decision for a child should be on what is the best placement to meet this particular child's needs, rather than, do I have a bed available that's in a remotely close area? And so this is why we are in support of this bill, because we think this will increase the number of options available so that children can have a good, permanent placement for as long as necessary while in out-of-home care. Any questions? [LB647]

SENATOR SEILER: Oh, Senator Krist. [LB647]

SENATOR KRIST: Thank you, Chair. And thanks, Linda, for coming. And I assume Kim is snowed in, in Omaha someplace. [LB647]

LINDA COX: Yes. [LB647]

SENATOR KRIST: Yeah, exactly. Some of us made it down here today. [LB647]

LINDA COX: I will mention that to her. [LB647]

SENATOR KRIST: Yeah, would you, please. I need to make this point for the record and in the hearing because...could you describe for us the visits that might happen with a couple who have or a family that has a foster child? They sometimes are required, the parents, to have visits to the

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child, and there are some monitoring requirements potentially for the foster parent. Could you describe that situation for me? [LB647]

LINDA COX: Are you talking about the preplacement visits, the home study that is needed for the placement to look at their strengths, or are you talking more about when parents have visitation with the children? And sometimes that happens under the supervision of those foster parents. [LB647]

SENATOR KRIST: Okay, that's the part I want you to describe for us. [LB647]

LINDA COX: Yes. That does happen. It's dependent on the case. In some cases, that needs to happen in a therapeutic setting someplace. Sometimes that can take place under the supervision of the foster parents. And in those cases where it can happen under the supervision of the foster parents, it's our hope that the foster parents are working in tandem with the biological parents to make sure those children are safe, that the parents are displaying an increased capability towards parenting, and that everything is being documented as it should for how those interactions are going so that then the courts can make the decision as to when it is safe to return the child or, when it is not safe, an alternate permanency needs to be addressed. [LB647]

SENATOR KRIST: So I'm not suggesting that any qualified foster parent, whether they...no matter what their orientation, could not monitor those situations. What I'm suggesting is that HHS needs to consider that the parent during a visitation may or may not agree with the orientation of the foster parent and there could be conflict in those visitations. It's another consideration. I mean, if we open it up to all kinds of different scenarios, you have a parent who's going to walk in on a visitation either in an out-of-home place, neutral place, or in the home. And the supervision of that visit is the requirement of the foster parent at that point, and that responsibility has always been precarious to me, I might add, but...so just...I just want to put it on the record. There is that responsibility and there could be pushback, if you will, from the foster...from the biological parent in some cases. And it would be very important that that relationship be addressed so that that's...it's not putting the child in a bad position during one of those visits. And if you care to comment, please do. [LB647]

LINDA COX: You never want to have a situation where there's triangulation and the child gets caught in between, whether that be on the sexual orientation of the foster parents, the race of the foster parents, the income level of the foster parent, whatever that may be. You would hope that by the time you're getting to the stage where the foster parents are monitoring visitation, that means that the parents are starting to be able to apply some of the things that they're learning and that they're not going to put that child in the middle of a negative situation. [LB647]

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SENATOR KRIST: Thank you, Linda. [LB647]

SENATOR SEILER: Any further? Yes, Senator Brooks. [LB647]

SENATOR PANSING BROOKS: Thank you for coming, Ms. Cox. I'm wondering...maybe I don't understand the whole hierarchy of our state's departments. But I guess, with this kind of position, has there been communication with HHS about changing whatever policy they have on their Web site? And it seems to me that these kinds of arguments about need should have taken some or at least gained some purchase with HHS and with the people who have this prior policy. [LB647]

LINDA COX: There have been some discussions in the past. We are advisory only and so it is up to each of their independent administrations as to how they want to work from there on. [LB647]

SENATOR PANSING BROOKS: Okay, thank you very much. [LB647]

SENATOR SEILER: Senator Williams. [LB647]

SENATOR WILLIAMS: Thank you. Thank you, Ms. Cox. The question I have--you mentioned in your testimony here, in the written and in the oral testimony, that your goal is to do what's right for these kids, and we're here talking about sexual orientation--how would you, in making that decision for the Foster Care Board, how would you weigh sexual orientation in that decisionmaking process? [LB647]

LINDA COX: It would need to be done on a case-by-case basis looking first at what are those needs of that child and then how those strengths of a potential foster parent, whoever that may be, can be a good complement to the needs of that child. [LB647]

SENATOR WILLIAMS: Would you look at that the same way that you would if you were weighing the decision of whether the parents were black or white? [LB647]

LINDA COX: Again, it should be based on the needs of the child and the skill set of the foster parent. And just to clarify, we are not the ones who actually make the placement decision. We are reviewing those decisions and what we are finding is often children get placed where there is a placement available, as opposed to one that's really well equipped with strengths to meet that particular youngster's needs. And then, when that happens and people are making their best attempt to be foster parents but it isn't their strong suit to handle the individual child, then that

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child often gets moved; and then you have multiple moves, which is even more damaging to the child. [LB647]

SENATOR WILLIAMS: Thank you. [LB647]

SENATOR SEILER: Senator Coash. [LB647]

SENATOR COASH: Thank you, Senator Seiler. Linda, I don't know if you...I mean the Foster Care Review Office tracks a lot of data. Do you...are you aware of...can you quantify how many placement denials have been made based on sexual orientation? [LB647]

LINDA COX: No, we don't get that information from the department. [LB647]

SENATOR COASH: Okay, I didn't think you did, but I'm trying to wrap my head around the scope of the...we certainly know where the needs of the children lie. Trying to figure out...I mean it's supply and demand, right? We have a demand for foster homes and a limited supply. And I'm trying to figure out where this...the scope of the supply is. So thank you. [LB647]

SENATOR SEILER: Senator Krist. [LB647]

SENATOR KRIST: Very quickly, Linda, I think, for the new members of the committee and for some of the audience. This is a piece of legislation that created the Foster Care Review Board years and years ago as an independent agency from the Legislature. So...and then it was reviewed again. The office was restructured a few years ago. So this is oversight. This is data. And so anything that is in this report is data that would have been collected by you, available from the department. You're not in a decisionmaking process. And what I hear you saying is the supply and demand that has been brought up is critical and that all of these different factors should be weighed in, in terms of the best placement for that child. Is... [LB647]

LINDA COX: Right. There's always going to be a demand for foster parents because there's foster parents who will be leaving the system for a variety of different reasons every year and who...and so there's always going to be a need for foster parents. And we need foster parents who have a broad range of skill sets so that we can select as a state the best skill set match to the needs of that individual child. [LB647]

SENATOR KRIST: Thank you. Thank you, Chair. [LB647]

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SENATOR PANSING BROOKS: Thank you, Senator Krist. [LB647]

SENATOR SEILER: Seeing no...oh, Senator Williams. [LB647]

SENATOR WILLIAMS: I've got one more question. We...I just want to be certain that I understand your position on supply and demand. And I know the situation that we have right now requires this supply and demand. But if the supply and demand was even, if there were more foster parents available than there were even kids looking, that you were looking to place, would the decision this committee should make be any different? [LB647]

LINDA COX: No. You still want to have the broadest range of people with skill sets for the children, regardless. [LB647]

SENATOR WILLIAMS: Thank you. [LB647]

SENATOR SEILER: Seeing no further questions, you may step down. Thank you for your testimony. Next proponent. [LB647]

DONNA COLLEY: Good afternoon. My name is Donna Colley, C-o-l-l-e-y, and I'm an attorney in Omaha. And I actually came here today to testify in support of second-parent adoption. And I have my young son with me. Thank you. But as he heard about this legislation, he leaned over to me and he said, I thought we were only going to hear the "whackadoodle" stuff after the support for second-parent adoption. So he was a little surprised that anyone in this room would suggest that his two parents, me and his other mother, both homosexuals, would be poor parents. So I felt obliged to come up and do the part for our family. We tried in the year 2000 to apply to be foster parents and we were advised of the memo. We were given a copy of the memo. And I'm an attorney. I looked at it, was quite shocked at how it had been put into place. What various social workers told us is there really is a wink-wink process, at least there was in the year 2000, that if you're really good parents, like they assumed that we would be--we live in a nice house on Blondo Street with a big backyard and a big playground for kids nearby and lots of neighbors, it's great place for a kid to live--that if you were willing to lie on the application and not admit being a homosexual, that it was good to go. We were not willing to do that. And so instead we had our own child, which is the reason I'm going to be here for second-parent adoption in a few minutes, talking to you, as he's now 13 years old. And the idea, as the young man said earlier, that we would be automatically disqualifying people because they're homosexuals is just a little "whackadoodle," in the words of my seventh-grader back there. It really just doesn't make any sense. We've got many, many teachers, principals, priests; people all across the community are homosexual. And to have that as an automatic disqualifier when there are very few other automatic disqualifiers is a little shocking to me. I came here as an attorney with Berens-Tate. I

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did labor and employment law across the country and represented Campbell's and Kellogg's. I was the...am the former director of EEO and affirmative action at Union Pacific. My neighbors like me. The teachers at Brownell-Talbot like me. We all get along great. And to find out that Nebraska still has this policy just doesn't make sense. So I felt obliged to stand up, tell you what happened to us in 2000, why we don't have foster kids, an adoption through the foster system, and instead we have a child through artificial insemination. It's because Nebraska wouldn't let us have any of the children that are suffering in foster care, even though we would have been willing to take three or four. So that's my comments. If anybody's got any questions, I'd be glad to answer. Thank you. [LB647]

SENATOR SEILER: Seeing none, you may step down. Thank you. [LB647]

SENATOR PANSING BROOKS: No, I just want to... [LB647]

SENATOR SEILER: Oh, excuse me. [LB647]

SENATOR PANSING BROOKS: Thank you. Sorry. I just want to thank you for coming forward and telling that story. It helps to know that you would have taken others. And I know you couldn't be more happy with your son. I love "whackadoodle." I... [LB647]

DONNA COLLEY: He's getting nervous back there right now. [LB647]

SENATOR PANSING BROOKS: Yeah, well, I like that word. So anyway, thank you for what you're doing and what you've done and for coming forward today. [LB647]

DONNA COLLEY: Well, thank you. I apologize for not having prepared remarks, but thank you for listening. [LB647]

SENATOR PANSING BROOKS: This is just as helpful. [LB647]

DONNA COLLEY: Thank you. [LB647]

SENATOR SEILER: Further proponent? [LB647]

AMY WEST: (Exhibit 8) Good afternoon. My name is Amy West, A-m-y W-e-s-t, and I am here on behalf of the Nebraska chapter of the National Association of Social Workers in support of LB647. First and foremost, the only points of consideration that should be made when

determining whether a potential foster home is suitable for a child are, as the bill states, health, safety, and well-being. To ignore a group of individuals who are willing and able to provide warm, safe, loving homes to those in foster care simply because of their sexual orientation or gender identity hurts children and damages our community. As you've heard already, Nebraska has a constant need for additional trained, qualified foster parents. This lack of foster homes means that children increasingly end up in group homes and other more restrictive placements, not due to their behaviors, but as a last-resort placement option. Being raised in a family environment should be vastly preferential to institutionalization, and denying a potential pool of foster parents is, again, hurting our children. Another important reason to support LB647 is to offer a safe haven for youth with similar identities. Youth who identify as LGBTQ face discrimination at school, in the workplace and, sadly, at home. Through no fault of their own, their gender identity and/or sexual orientation put them more at risk of rejection and maltreatment, causing an overrepresentation of LGBTQ youth in the child welfare system. Unfortunately, foster care isn't a safe space for these youth either. A high percentage report having experienced verbal harassment, physical violence, or other mistreatment while in care. Many end up bouncing from placement to placement, and one study found that over 50 percent had experienced homelessness because they felt that the streets were a safer place for them than their foster or group home. Until recently, only two states explicitly forbid same-sex foster parenting, as you've heard: Nebraska and Utah. However, now that Utah's ban on same-sex marriage has been overturned, and because their law allows single people and legally married couples to become foster parents, it seems that Nebraska may now stand alone as the single state discriminating against LGBTQ couples interested in being foster parents. It's time for us to move past the politics and put children first. Thank you, Senator Nordquist, for introducing this bill. And thank you all for your time today. Social workers across Nebraska and nationwide urge you to advance this bill out of committee. [LB647]

SENATOR SEILER: Senator Krist. [LB647]

SENATOR KRIST: This is the last time I'm going to bring this up. But you're in a position, and I think you understand, putting a child with a...in a quality home, no matter what it is, is very important. There would be though the potential for conflict to take a child out of a particular home--I'll be careful how I'm saying this--but to take a child out of a particular home where there would be conflict between parental visits to that foster home that would be arranged for and supervised by the couple. Would that be one of your considerations, to make sure that that home...you talk about LGBT child, obviously. But we're talking about another situation, and I don't want to go into a lot of detail. I think you know where I'm...what I'm talking about here. I'm really concerned about how that interface would be between a particular kind of person and a particular kind of home. Can you talk to me about that just a minute? [LB647]

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SENATOR PANSING BROOKS: I'm sorry, but I don't know what you're talking about, so... [LB647]

SENATOR KRIST: A straight family that has issues who have a child that needs to be put in foster care, someone who may not be understanding of that particular persuasion or to be LGBT, and the conflict that may happen, because what we're talking about here is a child who wants to be visited by a parent and supervised under the current system by someone who is their foster parent. So let me just be blunt: redneck going into a situation that could result in a child being put in a bad position. I want to make sure... [LB647]

SENATOR PANSING BROOKS: And so you could have that with race or any of the other, of course, as well. [LB647]

SENATOR KRIST: Exactly, exactly. [LB647]

SENATOR PANSING BROOKS: So how do you handle that with anything like race or somebody who is... [LB647]

SENATOR KRIST: Well, Senator, the question is to the social worker because she deals with it every day. How do you handle it? And would that be a consideration for you? [LB647]

AMY WEST: And I should... [LB647]

SENATOR KRIST: Is it a consideration now and would it be a consideration? [LB647]

AMY WEST: Right, and I should preface that I don't work for the state. I've never worked for the state, so I have not been involved in placing children. From what I've seen in past experiences in my career, that sometimes the foster parents are the ones who supervise visitation, but there are agencies who have professionals who can do that, as well. So if there was that kind of conflict, I imagine that they could have visitation with their biological parents at a neutral location. [LB647]

SENATOR KRIST: So whose responsibility is it to make sure that the child's best interests are served no matter what the cultural differences or race or whatever it might be? That really is just the question. I won't answer it again. But if somebody wants to address that as they come up here, I'd like to hear that, because I'm not interested in...I'm interested in foster care and I'm interested in parents. We've been interested in foster care for the last few years, taking great strides to make sure foster care is quality in this state and it's not just a...someplace you put kids

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because you want to fund them out of a different silo. So I got it, but I want to make sure that what we're talking about here is best interest of the child. And in most cases with state foster care, a parent, a foster parent, is put in that position, so...last time I'll ask the question. [LB647]

SENATOR SEILER: Any other questions? Thank you for your testimony. [LB647]

AMY WEST: Thank you. [LB647]

SENATOR SEILER: Any further proponents? Okay. Oh, just stick right there. You'll be...you can come up. You may go ahead. [LB647]

ARIANA HARGAN: (Exhibit 9) Good afternoon. My name is Ariana Hargan, first name A-r-i-a-n-a, last name H-a-r-g-a-n. And I'm here to speak to you as a former state ward. And I thank you for this opportunity. I'm here in support of the LB647 and to provide an outlook that a young person might have on this bill. Being a former state ward myself and a member of the LGBT community, this bill would affect me directly. Being a...here are two reasons why I am in support of this bill: this bill addresses the dire need for homes for thousands of youth in care; and that sexual orientation is not contagious, as some might think. I'd like to start by sharing three facts that I see as important in this hearing. As of 2012, more than 58,000 children in the U.S. foster care system were placed in institutions or group homes, not in traditional foster homes. According to the AFCARS Report Number 20. And according to the collegegridirons.com, in the Los Angeles Memorial Colosseum, maximum capacity is roughly around 92,000 people. In the state of Nebraska, at least half of that stadium can be filled with children waiting for a home, according to the U.S. Department of Health and Human Services. According to the Williams School statistics and an article in Journal Star, 42,763 Nebraskan families are LGBTQ families. That's 2.7 percent of the population that cannot legally marry, foster, or adopt. So I want to take a closer look at those numbers: 54,000 children are waiting for a home and loving parents; 42,763 people are waiting for a chance, just a chance, to give one of those kids a happy home. And that's only in Nebraska. If each person gave just one child a home, that's nearly every child waiting. Then factor in the idea that most couples have two or more children in their household and those numbers quickly diminish. Kids don't care if you're a one-eyed, one-horned, flying, purple, people eater who happens to be gay or if you're born one gender but identify as another. They just don't care. All they want is a roof over their heads with someone who will give them the love and care that they have...that they should have received from their biological parents. Isn't foster care and adoption supposed to be for the child anyway? Contrary to popular belief, sexual orientation is not passed by simple interaction. I myself have been taking care of kids since I was about nine years old, both my younger siblings and all of their friends from around the neighborhood. I gave them everything that they needed and to some I was the closest thing that they had to a parent. So I ask you if we're really going to deny these children perfectly good

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homes simply because of the parents' sexuality. Passing LB647 will start us on the right path of helping these children find homes where they will be loved and cared for equally. [LB647]

SENATOR SEILER: Further questions? Senator Pansing Brooks. [LB647]

SENATOR PANSING BROOKS: I just wanted to thank you for your testimony today, so appreciate your coming forward. [LB647]

SENATOR SEILER: Anybody else? You may step down. Thank you for your testimony. I believe the gentleman... [LB647]

LOREN KUSY: Hi. My name is Loren Kusy, L-o-r-e-n K-u-s-y, and I'm just here as an outsider. I wasn't here to testify, but after hearing what was going on--I'm a straight, loving father of five great kids and a grandson--and after listening to their testimony, I would trust them with my...any of my children. And any child would have a safe, loving environment with them, just listening to their testimony. If there's any conflict, say a Christian family has a child that needs foster care and the foster parents are Muslim, there could be a conflict there. But I think that the parents need to be taught acceptance instead of...and restraint, instead of worrying about how they're going to feel. There's a reason their kids are in foster care, so maybe they need to learn how to accept and know their kids are safe. And, yeah, just teach the rednecks. (Laughter) I think that would be okay. I mean any child would be blessed with these gentlemen, I believe. That's all. [LB647]

SENATOR SEILER: Any questions? Senator Pansing Brooks. [LB647]

SENATOR PANSING BROOKS: I just...thank you, Mr. Kusy, for coming forward. [LB647]

SENATOR SEILER: Thank you very much. Any further? I don't see a rush out of a chair, so we'll go to the opponents. [LB647]

GREG SCHLEPPENBACH: (Exhibit 10) Good afternoon. Senator Seiler and members of the Judiciary Committee, my name is Greg Schleppenbach. I am the executive director of the Nebraska Catholic Conference. The Nebraska Catholic Conference recognizes and is very concerned about the lack of married households who are willing to open their homes and families to nurturing children in need of foster care. There is clearly a need to encourage more husbands and wives to give of themselves in charity and concern for the benefit of these children and there is undoubtedly a need to improve all foster care settings to ensure that we are providing the most stable, nurturing, and healthy environment possible for children whose lives

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have been turned upside down. I can assure you that the bishops of Nebraska consider it a moral imperative to educate and encourage Catholic Nebraskans to become involved in meeting these human and family needs, and we are undertaking dialogue on how best to accomplish this important initiative. We analyzed this bill from the perspective that the best environment for the development of a child, especially a child who has experienced abandonment, loss, or abuse, is a household headed by a married man and woman who can contribute in gender-complementary ways to providing a stable and healthy family environment. We believe this perspective is well grounded in social science and common sense. And we believe that the state and every one of us should do everything possible to ensure that foster children can be placed in the most stable, nurturing, and healthy environment as possible. Our concern with LB647 is not simply that it opens the door to less than ideal settings for these wounded children. A bigger concern we have with this bill is that by prohibiting discrimination, as it proposes, it will prohibit exercising a preference for placing children in the most ideal setting of a married household. There are legitimate policy reasons for giving preference to foster homes with a married man and woman. LB647 should be rejected as it fails to uphold that legitimate public policy. Thank you. [LB647]

SENATOR SEILER: Questions? Thank you very much. You may step down. Next opponent. [LB647]

MATTHEW HEFFRON: Good afternoon. My name is Matt Heffron. I'm an attorney in Omaha, Nebraska. I'm a graduate, a 1984 graduate of Georgetown University Law School. For many years, I was a...the chief of one of the criminal divisions of the U.S. Attorney's Office in Omaha, and for the last 16 years I have been in commercial litigation with an Omaha firm. I'm also a member of the Thomas More Society, which has an Omaha branch. And one of the issues that Thomas More Society promotes is marriage. I'm here in opposition to LB647 for a number of grounds and I'll be real brief. The first one, in echoing what Mr. Schleppebach just said, it prohibits--and it does prohibit--giving preferences to the placement of children to a married mother and father. The words "shall not discriminate" makes that a prohibition. Number two, and this is a significant omission from the statute, it has no conscience exemptions, none. Particularly, these are essential for DHHS workers who must make the decision of where to place a child, as is apparent from the controversy surrounding these issues, some of the issues already been discussed. There is substantial disagreement about the placement of children and based on moral grounds. Without that conscience protection, it puts DHHS employees in jeopardy. Thirdly, this act clearly establishes a basis for legal causes of action. I'm a trial attorney and I see something like this causing a legal minefield, quite honestly. It can either come from the LGBT potential foster parent who does not get placed. Now he or she has the language in the statute that would give him or her a discrimination lawsuit. There's also the lawsuit that you can anticipate from DHHS employees who will be either terminated or disciplined for not following this statute. On those grounds, I think that you will find yourself needing to beef up the Attorney General's Office to defend the statute. Nothing further. [LB647]

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SENATOR SEILER: Further questions? Thank you for your testimony. [LB647]

SENATOR WILLIAMS: Chairman. [LB647]

SENATOR SEILER: Oops, excuse me, Senator Williams. [LB647]

SENATOR WILLIAMS: I do have one question, being a trial lawyer and being involved with this. Could you give us a fact situation that would give rise to a potential litigation? [LB647]

MATTHEW HEFFRON: Sure. If, from the employee point of view, if a DHHS employee says on...for conscience reasons he will not follow the dictates of the statute, he would be...could be disciplined and perhaps even terminated. That would give rise to a lawsuit based on the exercise of conscience, oftentimes based in First Amendment religious grounds. Another area that I see maybe an explosive litigation would be anyone who finds or is a member of the LGBT community who does not receive a placement. If there are colorable grounds, meaning any facts, that they could allege, that would then...could give rise to a discrimination action based on this statute. [LB647]

SENATOR WILLIAMS: Thank you. [LB647]

SENATOR SEILER: Yes, Senator Pansing Brooks. [LB647]

SENATOR PANSING BROOKS: I'm just wondering whether you think that we should, Mr. Heffron, place LGBT kids, or should we put the LGBT kids at another standard as well? Do you feel there's a difference in that? [LB647]

MATTHEW HEFFRON: You know, I don't really take a position...I don't...I don't take position on that. [LB647]

SENATOR PANSING BROOKS: Okay, just the marriage and the... [LB647]

MATTHEW HEFFRON: Right. [LB647]

SENATOR PANSING BROOKS: Okay, thank you. [LB647]

SENATOR SEILER: Thank you for your testimony. [LB647]

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MATTHEW HEFFRON: Thank you. [LB647]

SENATOR SEILER: Next opponent. [LB647]

KAREN BOWLING: (Exhibit 11) Good afternoon this snowy day to Chairman Seiler and members of the Judiciary. I'm Karen Bowling, K-a-r-e-n B-o-w-l-i-n-g. And I serve as the outreach director at Nebraska Family Alliance, and I appear before the committee today to voice our opposition to LB647. We believe that all children in Nebraska need the protection of laws that provide them with the ability to grow up in a loving, secure family. Our foster children are in special need of that protection. They have already gone through traumatic experiences that led up to the placement in foster care. Nebraska's foster care laws should not place special interests above their rights to live in a safe environment. I thank Senator Campbell and also Senator Krist just on work that's already been done and extensive time and effort in reforming the foster care system in Nebraska, which certainly has had its challenges. Unfortunately, LB647 would serve to reverse the positive traction that has been made thus far. Instead of allowing the experts of the field of DHHS to use their knowledge and experience in foster care placement, LB647 adds red tape that will serve to slow down the process of placement within the system. Rather than making the interest of foster children the number one concern, LB647 places the focus on the parents. Foster care does not exist to protect parents from discrimination. In fact, no one has the affirmative right to be a foster parent. That's why DHHS requires background checks and other preventative measures during the application process. Unfortunately, this bill essentially equates foster care placement with employment. But the professionals of DHHS should be required to discriminate, which is, in another word...sometimes we don't like to use that, but somehow we've been conditioned for to have distaste for the idea of discrimination. That's not to say that discrimination is always positive. However, we cannot equate foster care with employment in terms of antidiscrimination laws. For example, a business should, if reasonably feasible, be required to make accommodations to allow for a physically disabled person to be an employee there if that person is truly the most qualified and does not unreasonably burden the employer to make accommodations. However, if the same person wishes to be a foster care parent for an infant and cannot reasonably care for the child because of the disability, that also should be taken into consideration. [LB647]

SENATOR SEILER: Ma'am, your red light has come on. [LB647]

KAREN BOWLING: Okay, thank you kindly. [LB647]

SENATOR SEILER: Yes, Mr. Williams. [LB647]

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SENATOR WILLIAMS: I would like to ask you to continue with your testimony and finish, if you would, please. [LB647]

KAREN BOWLING: Okay, thank you. I think I'll just make the last statement here: Therefore, placing the arbitrary burden on DHHS and the experts involved in foster care placement does not advance the best interest of the child. We should be enacting laws that make it easier for children to be placed in safe, loving homes, not those that make it more difficult. Again, this bill focuses on the best interest of the foster parents and not on the children. Please support laws that facilitate the foster care system and that, in turn, make the children's life easier. This bill does the opposite, therefore, we respectfully submit that we are in opposition to LB647. [LB647]

SENATOR SEILER: Yes, Senator. [LB647]

SENATOR PANSING BROOKS: Ms. Bowling, welcome to Judiciary. Hi. How are... [LB647]

KAREN BOWLING: Yes. Hi, welcome and congratulations. [LB647]

SENATOR PANSING BROOKS: Thank you. We grew up together. [LB647]

KAREN BOWLING: We did. [LB647]

SENATOR PANSING BROOKS: Yes, we were in high school. [LB647]

KAREN BOWLING: Sheridan Sharks. [LB647]

SENATOR PANSING BROOKS: Yes. I'm just wondering how...I'm interested in the perspective that you feel it's burdening the system more to have a greater pool from which DHHS can choose parents and find safe homes for these kids who are actually hurting significantly. [LB647]

KAREN BOWLING: Thank you. I think, as stated before, there is no exception in here, too, with conscience, and so you're creating possible litigation, difficult situations that I think people that care in placement makes it difficult, not only the people from DHHS but those that are actually making the decisions how to place them. [LB647]

SENATOR PANSING BROOKS: Okay, so do you believe that we should have all sorts of exceptions, such as if you happen to not like a certain race or if you happen to be a Christian and not want a Muslim child and you happen...should we be creating these exceptions? Or do we

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trust DHHS to determine the best placement for the child according to the predilections of the parents and the foster child? [LB647]

KAREN BOWLING: Well, Patty, as you know, this will be a personal issue for me. I am a multiracial family, and so I recognize, having children that are biracial, the difficulties that they have experienced that other children maybe have not. One of the things I think we need to factor in here, we can look at the state of Massachusetts and also the state of Illinois, there is no exceptions here. And so people of conscience become at risk. And actually, Catholic Charities in their adoption--you know, this probably addresses more the adoption side, but they were involved in foster care placement--they've closed. So we've actually removed, removed more opportunities to place children because they had to abide by this language. There was no exception. What I want you to hear in my heart: I'm not talking about treating people with disrespect. That's a value personally that I care for deeply. [LB647]

SENATOR PANSING BROOKS: Um-hum. And I care for it too. [LB647]

KAREN BOWLING: You do, and I know. [LB647]

SENATOR PANSING BROOKS: And it feels like it is that, so. [LB647]

KAREN BOWLING: I understand. I understand. [LB647]

SENATOR PANSING BROOKS: Thank you for coming today. I appreciate it. [LB647]

KAREN BOWLING: And I appreciate, yes. [LB647]

SENATOR PANSING BROOKS: Thank you, appreciate your coming today. [LB647]

SENATOR SEILER: Questions? Seeing none, you may step down. [LB647]

KAREN BOWLING: Thank you. Thank you. [LB647]

SENATOR SEILER: Thank you for your testimony. Next opponent. [LB647]

AMBER PARKER: Hi. My name is Amber Parker, A-m-b-e-r, Parker, P-a-r-k-e-r. Good afternoon. I come before you. I am not an attorney, but I have read through LB647. And as you were talking, there were some questions that came up to me that I believe LB647 will definitely

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pose a problem. We are not here to discuss a legislation of same-sex marriage, families, or who someone should love, but the best interest of the children in the state of Nebraska. With this said, I have not heard the foundation in which gender identity or the groups of who is giving the definition of what sexual orientation is. Sexual orientation, on the dictionary.reference.com, says, one's natural preference in sexual partners. I looked up partner: a person who shares or is associated with another in some action or endeavor; sharer; associate. In some sexual orientation, we look at bestiality and it's in the group of sexual orientation. So one of the issues I have with LB647 saying that sexual orientation is covered in here, there are areas then that we have now...it's...it comes to who is interpreting now what sexual orientation is. That's a big gray area. That's a big danger. I'm sure you guys are...know of a group called NAMBLA, the North American Man/Boy Love Association. And I'm saying that anytime a state senator is looking at proposed legislation, it's greatly important that we look at the roots, we look at the pros, we look at the cons. We are here to protect the children in the state of Nebraska. One of the questions that has not been addressed: If someone is going through different changes, hormonal--let's say a man wants to become a woman, they have to get shots, there are different hormonal changes--if the social worker sees changes, and based upon if LB647 was to pass, and says they would not be fit, we see some suicidal tendencies, no, words have not been given in these areas but we are concerned for the children's safety, LB647 has now put that social worker to say this person's sexual orientation, gender identity, or expression is more important because they're afraid of having a lawsuit against them. Also, another area that's not addressed is on the discrimination with a child who would choose to be placed in a place with a mother and a father. Now that child in that organization, whoever would be within it, and in that situation, again, would...it would propose another lawsuit if that child wanted to be placed and, therefore, their interests and their best needs would be taken not into consideration. [LB647]

SENATOR SEILER: Any further questions? Seeing none, thank you for your testimony. Further opponent. You may proceed. [LB647]

MARIS BENTLEY: (Exhibit 12) Thank you. My name is Maris Bentley, M-a-r-i-s B-e-n-t-l-e-y. I reside in Omaha, Nebraska, and I'm here to speak in opposition to LB647 and LB648. My husband, Dave, who is also here with me today, and I, we've been married for 38 years. We have four grown children, nine grandchildren, seven who are born and two are unborn babies in the womb. I'm a retired teacher and school counselor. All my life I've been an advocate for children, and I come before you opposed to these bills. These bills are not about equality. They are about the promotion of the desires of adults. These bills are not about helping children. It is the exact opposite of helping children to promote sexual misbehavior, behavior which tears apart the natural family. After all, it always has and always will take an egg and a sperm to bring about new human life. I would like to read to you the words of a person who has suffered as a result of the kinds of environments that LB647 and LB648 would enshrine into law. They are the words of a woman named Katy Faust, one of an increasing number of adults who are speaking out

about their negative experiences growing up in homosexual households. And these are her words and I quote: When two adults who cannot procreate want to raise children together, where do those babies come from? Each child is conceived by a mother and a father to whom that child has a natural right. When a child is placed in a same-sex-headed household, she will miss out on at least one critical parental relationship and a vital, dual-gender influence. The nature of the adults' union guarantees this whether by adoption, divorce, or third-party reproduction--and, I would add here, foster care placement. The adults in this scenario satisfy their hearts' desires while the child bears the most significant cost: missing out on one or more of her biological parents, end quote. I understand that the foster care system needs work and that there are children who need foster parents. But how about as a state we enact laws that will encourage and protect the natural family which every child so desperately needs, instead of these misguided efforts which will actually hurt families and children? I'd like to conclude with some words also from Katy Faust, who knows whereof she speaks. And we need to listen to these adult children who have grown up in homosexual households before policy decisions are made which will cause harm to the children of Nebraska. And again, I'm quoting Katy Faust: There is no difference between the value and worth of heterosexual and homosexual persons. We all deserve equal protection and opportunity in education, housing, medical care, because we are all humans created in the image of God. However, when it comes to procreation and child-rearing, same-sex couples and opposite-sex couples are substantially unequal and should be treated differently for the sake of the children. Making policy that intentionally deprives children of their fundamental rights... [LB647]

SENATOR SEILER: Ma'am, your red button is on. [LB647]

MARIS BENTLEY: Okay, I'm sorry. [LB647]

SENATOR SEILER: Any questions? Seeing none, thank you very much. [LB647]

MARIS BENTLEY: Thank you. [LB647]

GREGG NEUHAUS: Chairman Seiler, members of the committee, my name is Gregg Neuhaus. I'm an attorney in Grand Island, Nebraska. I've been practicing for 35 years. I'm opposed to LB647 because it's a bill designed to put adults first and children second. In my career, I've had many opportunities and numerous cases involving foster children, and I've seen these damaged children too many times. Foster care tends to involve older children than does adoption. I've seen these foster children bounce from home to home to home to home, and that's sad and that's bad and this bill will make it even worse. The foster care system should be about giving the child the best chance at life, the best chance to succeed, and the best chance to thrive. But a child needs a compass; he needs a direction. And the fact that these children go from home to home is bad

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enough, but now you're going to take them from a gay home to a straight home to an unmarried home to a married home. That's not good for these children. Have we protected the child when we do that? Have we given him the best chance to thrive? This bill is about protecting adults that want something. It puts the wants of adults over the needs of children. The goal of foster care is not to soothe the feelings of adults. The goal of foster care is not about giving a group of adults something they can't have in nature. The goal of foster care is not political correctness, nor is it to make everyone equal. The goal of foster care is to serve the best interest of a child. The goal of foster care is protecting very vulnerable children. This bill turns those goals upside down. It's doesn't serve the best interest of the child. The goal of this bill is to serve adults and only secondarily protect children, and that's why I oppose it. [LB647]

SENATOR SEILER: Any questions of this witness? [LB647]

SENATOR MORFELD: I just walked in, sir. But as I understand, you're an attorney, correct? [LB647]

GREGG NEUHAUS: I am. [LB647]

SENATOR MORFELD: I mean, are you aware that as a member of the state bar you're prohibited against discriminating on the basis of sexual orientation, according to our rules and regulations as attorneys? [LB647]

GREGG NEUHAUS: And? [LB647]

SENATOR MORFELD: Are you aware of that? I'm asking you a question. [LB647]

GREGG NEUHAUS: I don't discriminate on the basis of anything, but this... [LB647]

SENATOR MORFELD: But what you're promoting here, sir, would. [LB647]

GREGG NEUHAUS: I'm not promoting something. This is promoting an agenda. This bill is promoting an agenda. I'm promoting child, the best interests of a child, and this does not serve that best interest. [LB647]

SENATOR MORFELD: Actually, sir, what this bill is doing is making it so that somebody is not discriminated against on the basis of their sexuality, and you are sitting here opposing that bill. [LB647]

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GREGG NEUHAUS: Well, with all due respect, Senator, it does more than that. It has to do with sexual orientation. It has to do with marital status. It has to do with a whole lot of things. All you've concentrated on all day is sexual orientation. That's not the whole thing in this bill. It's also marital status, and I'm just as opposed to placing a child with an unmarried heterosexual couple. [LB647]

SENATOR MORFELD: And why is that, sir? [LB647]

GREGG NEUHAUS: Because I don't think it's in the best interest of a child. [LB647]

SENATOR MORFELD: So my mother was a single mother for 15 years. I grew up. I didn't get into trouble. I went to school. I went to school after working full time for two years. I went to night school while working full time for two years. I had a part-time job on top of that. And then I went to the University of Nebraska and worked my way through the University of Nebraska, and then after that I went to the University of Nebraska College of Law. During that time, I started a nonprofit that now employs 30 full- and part-time staff. My mother was a single mother. Did she do something wrong? [LB647]

GREGG NEUHAUS: I didn't say she did. No. I'm not saying that a... [LB647]

SENATOR MORFELD: But under your rationale, sir,... [LB647]

GREGG NEUHAUS: May I answer? [LB647]

SENATOR MORFELD: No, you may not. [LB647]

GREGG NEUHAUS: Okay, well, then I guess I'm done. I won't... [LB647]

SENATOR MORFELD: Under your rationale, sir,... [LB647]

GREGG NEUHAUS: I won't...I'm not going to just be lectured to. If you want to ask me a question, I'll answer it. [LB647]

SENATOR MORFELD: Under your rationale, sir...you can walk away if you'd like, but under your...I'm going to finish. Under your rationale, my mother, who is a single mother, likely isn't the most fit parent. And the point that I'm trying to make is that fit parents come in all shapes and

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sizes, all kinds of sexual orientations. And that's all I have to say. Thank you for your testimony. [LB647]

SENATOR SEILER: Any further questions? Thank you. [LB647]

GREGG NEUHAUS: Thank you. [LB647]

SENATOR SEILER: Further opposition. [LB647]

DAVID MEYER: Good afternoon. I'm Dave Meyer. I'm a citizen here in the state and a concerned parent. I am against LB647 and LB648. My premises are twofold. I completely agree with the aspect here that we need to do what's best for the children. I mean they don't have a voice. They clearly are one of our most vulnerable aspects of society and they've come from a situation that's already in a stressful condition in their family environment. And so I'm suggesting that we need to consider what is best for the child, similar to the prior gentleman's thoughts there. You know, part of this gets into legislating morality. I don't want to go there. But on just a simple biological fact, I think we all are here only because of one sperm and one egg. And I don't think there's any gender, you know, identity or sexual orientation discussion across any other part of the animal kingdom. We're only presenting that here in this case for parenthood for those of us that are in the human race. And so I just find that precedent rather interesting. But I want to go to...you know, there's been studies that have been attested to that studies find that there's no difference in family structure on the outcome of the children. There was a study done by Professor Mark Regnerus in Texas, back in 2012 is when he completed it, that involved over 3,000 adult children from eight different family structures. And I agree with the senator here. There can be success in any family structure. But let's look at what the facts were. The greatest negative outcomes of that study were found among children of same-sex parents. Regnerus' study showed that negative outcomes for these children, the adult children, so they studied them well into adulthood, 25 of 40 categories included far higher rates of sexual assault; 23 percent of the children were sexually assaulted, versus 2 percent of heterosexual parenthood families. There was poor physical health, increased depression, and so forth. But another one from a taxpayer standpoint: higher unemployment. Sixty-nine percent of same-sex household children grew up in an environment of unemployment, compared to 17 percent of the married parents. And by unemployment, I mean on welfare. So you're putting an additional burden on the state besides creating mixed messages for the child that doesn't really know what their identity is because they can't speak for themselves. So I'm advocating on behalf of what is best for one of our least protected, most vulnerable classes of society that are already in an at-risk situation is you give them the opportunity for best success in the family structure that you place them and, thus, I'm against this particular legislation. Thank you. [LB647]

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SENATOR SEILER: Any further questions? Yes, Senator Morfeld. [LB647]

SENATOR MORFELD: So you just stated...cited some facts here and I'd love to see your study. [LB647]

DAVID MEYER: I'll be glad to send it to you, sir. [LB647]

SENATOR MORFELD: Absolutely. What do you think is...why do you think that there are more unemployed, more of those kids, because their parents are homosexual? [LB647]

DAVID MEYER: You know, I misstated when I used the word "unemployed." It's actually...they were on welfare was the issue. They were on government support. [LB647]

SENATOR MORFELD: And why do you think that is? [LB647]

DAVID MEYER: I don't know. I can't attest to that. I'm only discussing...I'm stating the outcome that was there. [LB647]

SENATOR MORFELD: So if there...so let me ask you this question: Do you think that there is a gay couple that could be better parents than a heterosexual couple? [LB647]

DAVID MEYER: Oh, I think on an individual circumstance, certainly, that could happen. [LB647]

SENATOR MORFELD: And... [LB647]

DAVID MEYER: But I'm just looking...all I'm stating here is the results of a study that looked at eight different family structures, and the outcome in the aggregate were the results that I stated. And I'll be more than happy to send that. I'll e-mail it to everyone here on the Judiciary Committee as soon as I sit down. But that, again, there's always exceptions to every situation. And, you know, you've obviously proven success in the family structure that you were grown up, you know, that you were raised in, and you've worked through whatever those challenges were. I applaud you for that. I'm just simply trying to state the norm, what you hear everyone else comment, that all these studies claim that there isn't a difference. Well, if you look at the detail of many of those studies, and I'm not a psychologist, okay, but I've read some of these things, they said when they were comparing apples to apples, they weren't apples to apples. They were comparing all these structures to single parenthood families. They were not comparing their

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results to heterosexual, married, natural family structures. And when that was introduced into this study by Professor Regnerus, that's where the results came out the way they were. That is clearly the strongest, on average, parental structure design. And since we've got children at risk, I think that's the one we need to advocate. [LB647]

SENATOR MORFELD: So a follow-up question,... [LB647]

DAVID MEYER: Yeah. [LB647]

SENATOR MORFELD: ...back to my original question. [LB647]

DAVID MEYER: Yes. [LB647]

SENATOR MORFELD: You noted that there could be a gay couple that is perhaps better parents than a heterosexual couple. So... [LB647]

DAVID MEYER: Well, we know we've got heterosexuals... [LB647]

SENATOR MORFELD: One second. I just want to finish my question, sir. [LB647]

DAVID MEYER: Go ahead. [LB647]

SENATOR MORFELD: So isn't foster parents currently...aren't they currently determined, whether or not they're fit foster parents, on a case-by-case basis? [LB647]

DAVID MEYER: I don't know the specifics of that, but that's my understanding, yes. [LB647]

SENATOR MORFELD: They are, they are. So couldn't we determine whether or not, using the same standards that we use for heterosexual couples, that homosexual couples are also fit parents? [LB647]

DAVID MEYER: What I would conclude out of that, you know, you've got a set of criteria that obviously need to be followed and everybody needs to meet those criteria. So I'm giving that all those criteria have been met, okay? You're not going to pass through someone that doesn't meet the criteria to be a good parent. All I'm simply saying is, beyond that, now that being stated, this study is suggesting the best structure on a national level from these 3,000 families that were studied is it concluded that the heterosexual, natural family structure won out across many

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different...40 different class...categories they studied. And the same-sex households where both parents were of the same sex, they actually had the worst outcomes, and those were the ones I stated, so. [LB647]

SENATOR SEILER: We'll be interested in reading your material. [LB647]

SENATOR MORFELD: Senator, I still just have one statement to make. [LB647]

SENATOR SEILER: Okay. [LB647]

SENATOR MORFELD: You know, I was looking up your study on-line here while you were talking and it actually...the study doesn't have anything to...it wasn't specifically looking at gay parenting, so I'm certainly... [LB647]

DAVID MEYER: No, it wasn't. It studied all eight. But the outcome of that...I mean, he went in there with completely wide-open perspective. But the results is what I was stating for you. I can get you a copy of the study if you...you have access there? It's 19 pages. But I'm just giving you the summary results. [LB647]

SENATOR MORFELD: Thank you, sir. [LB647]

SENATOR SEILER: Thank you. Any further questions? Thank you. Opposition. [LB647]

MARK BONKIEWICZ: (Exhibit 13) Good afternoon, Senators. My name is Mark Bonkiewicz, M-a-r-k B-o-n-k-i-e-w-i-c-z. I'm originally from Sidney, Nebraska, out in the Panhandle. I live in Omaha now. I'm here to provide the testimony from Bob Sullivan from Hastings. He unfortunately couldn't be here today because he's taking a busload of teenagers to a sexual purity conference in Omaha as we speak. So those roads are a little tricky underneath those overpasses on the interstate. Bob would say, if he was here, Nebraska should not follow the lead of other states who have created new laws without any reliable information as to how badly the laws hurt children and weaken families. To do so would make Nebraska another social experiment. We should wait and see how the experiment turns out in Canada, Europe, and California, since they have already willingly thrown their citizens into the experiment. I am hopeful that the esteemed members of the Judiciary Committee are willing to think more deeply about these issues than those who put the importance of equality above all else with little consideration to the best interest of our children. It seems that the feelings of adults have overtaken concern about what is best for children, but that is a false image portrayed by the Human Rights Campaign. The belief that equality should be achieved at all costs is reckless and poorly conceived. Senator Nordquist,

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Senator Howard, Senator Morfeld will likely feel they have their hearts in the right place but, in reality, they are actually promoting laws that will hurt everyone. In addition to the harm of children, the health risks of the homosexual lifestyle are rarely discussed. One of the many very serious concerns is the fact that men who have sex with other men are 20 times more likely to develop rectal cancer than heterosexual men. This is just one of the many medical reasons why we should not be facilitating, encouraging, or championing a homosexual lifestyle. As lawmakers of the citizens of Nebraska, you should be passing laws that reflect the values, wishes, and views of your constituents. If you had proof that your constituents were misinformed or simply wrong, that would be a different story. But on these issues you have no proof. Nebraskans overwhelmingly voted in favor of the traditional marriage the last time such an issue was put out to the popular vote. All indications are that Nebraskans still feel the same way. If you harbor a personal agenda that places equality at the pinnacle, know that you have a minority view in Nebraska. You should not stoop to being an activist Legislature, especially when your activism will hurt children, families, and the very people you seem to want to help, the same-sex attracted. You are likely to receive a list of names in favor of the bills today. Many of those names will come from a petition drive by the Human Rights Campaign. I haven't viewed the list, but I confidently predict that many, if not the majority, of the people on the list live outside of the state of Nebraska. I ask that you go through and strike the names of all those who truly...who live in Nebraska. Let me read that again. I ask that you go through and strike the names of all but those who live in Nebraska so that you can see just how short that list actually is. Thank you. [LB647]

SENATOR SEILER: Any questions? Okay. [LB647]

MARK BONKIEWICZ: Thank you. [LB647]

SENATOR SEILER: (Exhibit 14) Thank you. Any further opponents? Seeing none, anybody in the neutral? Seeing nobody, the information will be made in the final record of the written materials and the...anybody that has signed up to support or oppose. And we will close with Senator Nordquist. [LB647]

SENATOR NORDQUIST: Thank you, Chairman Seiler. It's hard to believe that no one is neutral on this issue. (Laughter) I'd like to thank the committee for giving it fair consideration. You know, we heard from opponents when I introduced this bill two years ago, before the committee advanced it, that, you know, we need more married foster parents. We need more foster parents, period, in this state. We certainly need more married foster parents. And two years later, there's still kids languishing in the system, and that's the problem we're trying to address. And we have Nebraskans who have come forward who can provide a safe, stable, loving home, wanting to open their homes, not for some reason, not for themselves, but for the kids. And all this bill is

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doing is saying we're going to eliminate everything else and just focus on the well-being of the child. The bill says that that is what the department should put its emphasis on. And, you know, we heard some testifiers here cite some research and what the best structure is. One of them said, I'm not a psychologist. Well, what do the psychologists say? The American Psychological Association says, social science has shown that the concerns often raised about children of gay and lesbian parents are unfounded; overall, the research indicates that children of lesbian and gay parents does not...do not differ markedly from children of homosexual parents in their development, adjustment, or overall well-being. That's what the psychologists say. The American Pediatric Association says very similar things. Forty-eight other states, and now it sounds like Utah, as well, has this policy in place. It's time we do too. Thank you. [LB647]

SENATOR SEILER: Okay. Any questions? Seeing none, thank you. [LB647]

SENATOR NORDQUIST: Thank you. [LB647]

SENATOR SEILER: How many people here that testified first for the proponents would want their testimony to support the next two bills? To save your...can you go to the outside sheet and sign that and ask...and we'll have that as asked to support the next two bills. Same thing with the opposition, if you would sign on the deal, then we won't go through your full testimony. You've already got it now. If you want to testify, I'm not here to stop that, but I'm just wondering out loud. If somebody would rather do that, that would be fine with the Chair and your testimony will be accepted on all...the last two bills. Sara, you may proceed. [LB648]

SENATOR HOWARD: Thank you, Chairman Seiler. Good afternoon, members of the committee. For the record, I am Senator Sara Howard, S-a-r-a H-o-w-a-r-d, and I represent District 9. Today, I bring you LB648, a bill to allow two unmarried persons to adopt a child jointly, a concept commonly referred to as coparent or second-parent adoption. When I ran for office, I went door to door meeting voters, as I'm sure every person on this committee did. And I had never heard of second-parent adoption until I was canvassing a neighborhood and I asked the same question that I always do, which is, is there anything that you're worried about that I should be worried about? And a young family with two really adorable children told me that they wished Nebraska would allow second-parent adoption. So just as a review, for an adoption to be valid under Nebraska's adoption statutes, the record must show the following four factors: the existence of an adult person or persons entitled to adopt; the existence of a child eligible for adoption; compliance with statutory procedures providing for adoption; and evidence that the proposed adoption is in the child's best interest. There are two cases regarding second-parent adoption in Nebraska, and they were both decided in 2002. The first, In re Luke, or regarding Luke, questioned the ability of a Nebraska woman to adopt her partner's three-year-old baby boy. In In re Luke, the court interpreted Nebraska's adoption laws to prohibit adoption of a child by a

person who is not married to the biological parent unless parental rights have been terminated or relinquished. So the biological parent would have to terminate their own rights in order for another parent to be able to adopt. [LB648]

SENATOR PANSING BROOKS: Can you talk up, because I know people are having trouble hearing. Sorry. [LB648]

SENATOR HOWARD: Sure, yes, I will speak up. Thank you. [LB648]

SENATOR PANSING BROOKS: Thank you. [LB648]

SENATOR HOWARD: That same year, the Nebraska Supreme Court heard Russell v. Bridgens, which was a case to decide whether Nebraska would recognize a Pennsylvania second-parent adoption for the purposes of settling a custody dispute. The Nebraska Supreme Court, in a seemingly opposite decision to In re Luke, upheld the enforcement of the Pennsylvania second-parent adoption. And I know the lawyers in the room will be quick to point out that these cases are distinguishable because one is an interpretation of Nebraska's adoption statute and the other is a decision regarding jurisdiction and full faith and credit. But what I feel really distinguishes these two cases is that in the first the state of Nebraska denied Luke his second mother, while the unnamed child in the second was allowed to keep his or hers simply because the child was born and adopted elsewhere. LB648 seeks to remedy this discrepancy. In dissent in In re Luke, Justice Gerrard accused the court of spending so much time on statutory construction that the parent-child relationship was relegated to the shadows. Because this Legislature has failed to recognize the diversity of the modern family in the years since In re Luke, the shadows are where these families and these children remain. For children, a lack of legal recognition of their families has tangible implications. They cannot be assured financial benefits from the second parent, including health insurance, veterans' benefits, disability benefits, Social Security survivors' benefits, of which I was a recipient after my own father passed away, life insurance benefits, workers' compensation benefits, survivors' awards in wrongful death cases, inheritance with or without a will, or inheritance from relatives of their parents. For parents, this lack of recognition leaves them without the tools essential to ensuring the well-being of their child. They cannot make medical decisions or consent to treatment. They cannot make educational decisions. They have no right to represent the child's interest in a legal action. They cannot take family medical leave if their child becomes sick. And worst of all, they have no guarantee of custody should the biological or primary adoptive parent pass away. Perhaps more important than the tangible benefits to the both the child and the parent is the critical psychological and developmental role that the parent plays in the child's life. Children of unmarried parents love and rely on their parents, regardless of the biological or legal status of their relationship. In child and family law, the best interests of the child trump all other concerns. And many states have made allowances

for unmarried second persons to adopt, and the majority have done so through court decision for that very reason. The courts rendering these decisions consistently find that legal recognition of the parent-child relationship is not only in the child's best interest but essential to healthy development. Or, in the words of the Indiana Court of Appeals, allowing a second parent to share legal responsibility for the financial, spiritual, educational, and emotional well-being of the child in a stable, supportive, and nurturing environment can only be in the best interests of the child. As a member of the Health and Human Services Committee and the daughter of a social worker, I would be remiss if I did not mention the critical role this bill could play in fixing our broken foster system, as I know you've heard quite a lot about already. Much of the discussion in Health and Human Services centers around the need for safe, stable, and loving families for our state wards. And the inability of unmarried but otherwise qualified individuals to adopt means that children are allowed to languish in our system for years, bouncing from home to home, denied the love and stability that all people crave and all children deserve. LB648 ensures that our law recognizes the diversity of the modern family. It fixes an adoption law oversight that was problematic in 2002 but is inexcusable in 2015. We have waited for too long to lift these Nebraska families out of the shadows and the only way to do so is the advancement of LB648. Thank you for your consideration of LB648, and I will try to answer any questions you may have. [LB648]

SENATOR SEILER: Senator Krist. [LB648]

SENATOR KRIST: Thank you, Chair. And welcome, Senator Howard. Point to me in this piece of legislation, if it's contained in these statutes, where the situation of a divorced couple where primary care is given to the father or mother... [LB648]

SENATOR HOWARD: Primary custody? [LB648]

SENATOR KRIST: Right. [LB648]

SENATOR HOWARD: So in the instance of a divorced couple, presumably, they're both biological parents? [LB648]

SENATOR KRIST: Correct. [LB648]

SENATOR HOWARD: If they're both... [LB648]

SENATOR KRIST: Well, let's take a worst-case scenario. [LB648]

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SENATOR HOWARD: Okay. [LB648]

SENATOR KRIST: Let's just say we have divorced parents and that child was born out of wedlock and then they married. [LB648]

SENATOR HOWARD: And then they married and this... [LB648]

SENATOR KRIST: That's the toughest one, I think, so go ahead. [LB648]

SENATOR HOWARD: So, I mean, upon marriage, then there is the ability to adopt in the state. If they choose not to marry, then they would not have the ability to adopt. A good example is sort of you're...we're starting to see a lot...well, we see a lot of grandparents who are parenting. And in the instance that there is a biological grandfather and he has a biological tie to that child but has a partner, and maybe they don't want to get married because of pension reasons, then in that instance that grandmother figure would not have any tie to that child if the grandfather figure passed away. And so there would be sort of no stable and loving home at that point for that child. [LB648]

SENATOR KRIST: Okay, that's pretty clean. Now let's take the fact that that grandfather was divorced and his...the grandmother was over here and he remarried here. What...are we depriving rights...forget the grandparents. Let's go back to the parents. (Laughter) I'm looking at a situation where there's a divorce. Primary custody has been awarded to the mother. The mother now enters into another kind of relationship and finds another woman in that...now what this bill would do is allow the other woman to adopt and all that care, etcetera. What happens to the biological father who is still alive, or biological mother? I don't want to be gender specific. The other biological parent, where are those rights? [LB648]

SENATOR HOWARD: In regards to the adoption? And I would actually...Amy Miller from the ACLU is coming up after me because I don't practice family law, as much as I would love to, and she may be able to answer that question a little...with more clarity than I can because that is an interesting hypothetical, a law-school hypothetical, if you will. [LB648]

SENATOR KRIST: I'll wait. [LB648]

SENATOR HOWARD: Thank you. [LB648]

SENATOR SEILER: I have a question. Do you have the cite on Luke? [LB648]

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SENATOR HOWARD: I can get the cite for you, absolutely. [LB648]

SENATOR SEILER: And the other one, the Russell case. [LB648]

SENATOR HOWARD: For both of the cases? Absolutely. [LB648]

SENATOR SEILER: Just send them to my office. [LB648]

SENATOR HOWARD: I will. Thank you. [LB648]

SENATOR SEILER: Thank you. So... [LB648]

SENATOR PANSING BROOKS: Maybe to all of us, if you would, please, and thank you. [LB648]

SENATOR HOWARD: I will send it to everybody. [LB648]

SENATOR SEILER: Okay, I have... [LB648]

SENATOR HOWARD: I'm very egalitarian. [LB648]

SENATOR SEILER: I have one more question. I thought I heard you say that they couldn't inherit... [LB648]

SENATOR HOWARD: Yes, and interest...this is a good question. [LB648]

SENATOR SEILER: ...with or without a will; and with a will, anybody can inherit. [LB648]

SENATOR HOWARD: Right. We were thinking of instances where potentially a person has a will but it doesn't specify who the takers are, necessarily, and so if they had a... [LB648]

SENATOR SEILER: Then you got a bad drafting lawyer. [LB648]

SENATOR HOWARD: (Laugh) Right, terrible lawyering, which would never happen by anybody in this room, of course. Maybe they didn't specify the takers or maybe they had held

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this child out. You know, in Nebraska, you have to hold a child out for at least ten years in order to be a taker. [LB648]

SENATOR SEILER: Yes. [LB648]

SENATOR HOWARD: What if it was a seven-year-old child and you hadn't had ten years to hold them out as your child? Would they be able to take even if you did have sort of a document that specified that you wanted your children to be takers? [LB648]

SENATOR SEILER: I think that last case kind of liberalized that ten years. [LB648]

SENATOR HOWARD: Right. [LB648]

SENATOR SEILER: The Supreme Court said, well, you know, they held him out for...as his child for ten...for six years or seven years,... [LB648]

SENATOR HOWARD: Right. [LB648]

SENATOR SEILER: ...he treated her like a child, everybody in town thought he was his child,... [LB648]

SENATOR HOWARD: Right. [LB648]

SENATOR SEILER: ...we'll give him the rights. [LB648]

SENATOR HOWARD: And my hope is that with second-parent adoption, while inheritance rights would be addressed, we would also start thinking... [LB648]

SENATOR SEILER: But this isn't an estate case, so. [LB648]

SENATOR HOWARD: Right, this isn't an estate...it's not an estate hypothetical, but we would also start considering, you know, who does pickups at school and who's able to do that and who is able to get them health insurance, that sort of thing. [LB648]

SENATOR SEILER: I understand. [LB648]

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SENATOR HOWARD: It's a very interesting legal area. [LB648]

SENATOR SEILER: Any other questions? Seeing none, thank you. [LB648]

SENATOR HOWARD: Thank you, Senator. [LB648]

SENATOR SEILER: Proponent. [LB648]

GRAYSON COLLEY: Hello. I am Grayson Colley. I'm 13 years old and in seventh grade at Brownell-Talbot in Omaha, Nebraska. I have two moms, one I refer to as "Mom," who is at home, and one who I refer to as "Mommy," who is right over there. I've always had two moms and I always will. And while I was asking Mommy--again, over there--what...for suggestions for this speech, she said just to say what you say whenever people ask you what having two moms is like. And what I said back to her is, they never have. But what I would say is that it's like having parents. (Laughter) They're basically like any normal set of parents, except for having twice the number of eyes in the backs of their head. They take care of me. They love me. They tell me to do my homework. They're, again, just a normal set of parents. And since they're my parents every day in day-to-day life, they should be my parents in law. And they now are because we moved to Texas and got a second-parent adoption. And I believe that parents in Omaha should...well, in all of Nebraska should be able to do the same. Thank you for letting me speak. [LB648]

SENATOR SEILER: I don't think you meant to move to Texas to get the second-parent...you mean get it here in Nebraska, right, Grayson? [LB648]

GRAYSON COLLEY: Yeah, we meant to get it here in Nebraska, but we had to move to Texas. [LB648]

SENATOR SEILER: Okay, I thought that's what you meant. You're a lucky boy. [LB648]

GRAYSON COLLEY: Thank you. [LB648]

SENATOR SEILER: Senator Pansing Brooks. [LB648]

SENATOR PANSING BROOKS: What an articulate young man. Thank you so much for speaking on behalf of this important issue. Obviously, you are a wonderful example of what we're talking about, and what we're talking about is love. And we're talking about the love of two

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people and their ability to raise and love and nurture a child. And so thank you. Thank you very much for your time here today and your wonderful example. [LB648]

GRAYSON COLLEY: Thank you. [LB648]

SENATOR SEILER: Any further questions? Seeing none, thank you for your testimony. I'll bet you can't do better than that. [LB648]

DONNA COLLEY: No way. That's my boy. (Laughter) Chip off the old block. Hi. I'm Donna Colley, C-o-l-l-e-y, and that was my son you just heard from. And I want to clarify something very quickly, and that is we did move to Texas to get a second-parent adoption. We...Grayson was supposed to be born in Vermont in the year 2000. I'm an attorney and I did all the research to make sure...how is it that I get a legal connection to my son? You know, some things, as even an attorney, those contracts we sign, our mortgages, there are lots of documents we sign and we kind of think, ah, maybe we know what that means, maybe we know what our legal rights are. But, I'll be darned, there was one thing I wanted to make sure about, and that was that my son had a legal connection to me. I was the wage earner in the family. That's how we got our health insurance benefits. So before we had a child, I did all the research and I found out that Vermont back in 2000 had passed something called civil unions. And Grayson's other mother and I went to Vermont for the specific purpose of having a civil union, knowing that we could return to that state and have a child and we would both be on his birth certificate and we would know, 100 percent, for sure, that he always had a legal connection to both of his parents. So you heard Grayson a minute ago talk about second adoption. In reality, we moved to Texas to get one. So what went wrong? Well, that's the problem with not having a plan and thinking maybe, sort of, documents might cover you. And, well, did that lawyer draw up all those papers right? And guess what kids do? They do something to surprise you too. He was born nine weeks early here in Nebraska. So we bought a plane ticket. We were all ready to go on December 1. He wasn't supposed to be born until December 24 in Vermont. We had the doctor lined up. I was going to be on the birth certificate. And here he came, nine weeks early, all two pounds of him, right here in Nebraska. And we tried everything to get me on the birth certificate because we needed health insurance. And I didn't want my Social Security benefits, that Sara Howard got to get when her father died, I didn't want my son not to have those. I wanted my son to have a legal connection to me. So what did I do next? Well, we appeared before this committee. It was in March of...March 20, 2007, when we came down here and testified. And I'm going to go back to Grayson's "whackadoodle" term. We heard the same "whackadoodle" NAMBLA, man-boy, bestiality nonsense that hopefully you won't hear twice today. I took my son out so he wouldn't hear all the details that I had to hear back in 2007. And that won. In 2007, those people sat there and talked about us like that and that won. And so I never came back here again. Instead, what I did is I moved my family to Texas and we got a second-parent adoption. And I just want to say, thank goodness I did, because we also had a...my custody battle. (Crying) I apologize. So contrary to

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what Al Riskowski thought in 2007, that Margaux and I would never break up, well, we did and we had a year-and-a-half battle. I've spent more than \$50,000 to secure my son's legal right to me. And I talked to Judge Dougherty this morning, who awarded me custody of my son just a few months ago. And I said, if I had not had that second-parent adoption from Texas, what would you have done? And he said, there's not anything I could have done for you, your son would be living in Florida right now and I don't even know if I could have given you custody. This legislation is needed. Do not vote against it without at least meeting one on one with a family like mine who has suffered because it is lacking here in Nebraska. That's...thank you. [LB648]

SENATOR SEILER: Questions? Thank you for your testimony. [LB648]

DONNA COLLEY: Thank you. [LB648]

LINDA QUENZER: Good afternoon. [LB648]

SENATOR SEILER: Good afternoon. [LB648]

LINDA QUENZER: (Exhibit 1) Chairman Seiler, members of the Judiciary Committee, I want to thank Senator Howard for introducing this legislation. My name is Linda Quenzer, L-i-n-d-a; last name is Q-u-e-n-z-e-r. I'm the ombudsman for the city of Lincoln, but I'm not here to testify on this bill in that capacity. But as a parent and a citizen of the state of Nebraska, I am in favor of this legislation. I've been blessed with a good education, good job, and a relationship of almost 27 years, and with a child now 15 years old. I'm pretty average but with one or two glaring exceptions: chiefly, that I am a legal stranger to my own son. Though I am his parent in every other respect--paying for his support, for music lessons, instruments, all those things that go along with parenting, like being mom's taxi service for practices, events, and lessons--I have been assured by the several attorneys who have helped my partner and me to patch together guardianship for my child in case my partner dies, that probate courts in the state of Nebraska are not bound to honor these legal agreements. We have been warned by counsel, in fact, that any of my partner's relatives would have more rights to my son's custody than I would. If that is not troubling enough, all the love and the planning that goes into preparing to pass that torch on to the next generation is essentially lost to me. Anything I leave my child will be taxed around 18 percent, according to my accountant, 18 percent. Now I don't have a big estate, so 18 percent is a huge bite for my child to pay. This is a strictly legal issue that has serious, potentially catastrophic implications for hundreds, perhaps thousands, of families, including mine, in this state. Nebraska can ill afford to make second-class citizens of any of our children and yet this is the current state of affairs in the state of Nebraska. I urge you to send this bill to the floor for

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further consideration and passage, and I thank you for your time. I am available for questions. Thank you. [LB648]

SENATOR SEILER: Questions? You are correct on the 18 percent. I think, in fact, it's maybe 19 percent. [LB648]

LINDA QUENZER: It may have gone up a little, yeah. [LB648]

SENATOR SEILER: And it's worse because, instead of getting \$40,000 exempt, you only get a couple thousand. [LB648]

LINDA QUENZER: That, and all of the information that Senator Howard shared: all of my insurance benefits, my Social Security benefits. This isn't about me. This is about our children. I'm standing here, willing to pay my fair share for my child to have the same life that yours do, and I don't think the state of Nebraska is that unfair. I just don't. [LB648]

SENATOR SEILER: Any questions? Yes. [LB648]

SENATOR PANSING BROOKS: I just want to say thank you for your testimony, Ms. Quenzer. And I know your son and how fabulous he is and what a great and amazing job you two have done raising him. And I just want to thank you for your courage to come forward today. [LB648]

LINDA QUENZER: Thank you. It is somewhat frightening knowing that I have absolutely no legal standing. And it has taken 15 years for me to be able to go this far with this, and I thank you for allowing me to come before you. [LB648]

SENATOR SEILER: Next proponent. [LB648]

BARBARA BAIER: Thank you. Thank you, Senator Seiler and Judiciary Committee, for letting me come and speak before you today. My name is Barbara Baier. Baier is spelled B-a-i-e-r. I come before you today to testify in support of LB648 that would provide for the adoption of a minor child by two persons, regardless of their marital status. I do need to go and have a disclaimer. I'm an elected member of the Lincoln Board of Education. I am not here today speaking on their behalf, but as a private citizen. My partner, Lin Quenzer, and myself have been in a committed relationship for 26 years. I adopted our son as a single parent when he was four months and six days old. Though my partner is a fine person, an upstanding citizen, fully employed, and a full partner and contributor to our family, she remains a legal stranger to her

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own son. This situation has added many costs to our family, including double payment of deductibles on our health insurance, dual health insurance coverage for our family, and the challenges of everyday discrimination that result from a lack of legal status. This impacts us as adults, but the brunt of this impact is carried by our minor child. Only I as his legal parent can sign school documents, medical releases, and more. This means that our son can only count on one parent during times of emergency or even during the course of an average day, because Nebraska law keeps the other parent at bay. The logistics of daily life are cumbersome. But the discrimination our minor child faces because Nebraska does not recognize same-sex, two-parent adoption does not end there. If I, his legally recognized parent, dies or is incapacitated, our son cannot rely upon the courts to honor our wills or guardianship or power-of-attorney documents. His own very much alive, honorable, and capable mother, the partner of my life for 26 years, could be precluded from assuming custody. This would leave our son an orphan and possibly a ward of the state, a totally unfair and avoidable circumstance. Additionally, if my partner of 26 years, our son's mother for his entire life, dies, our son as an heir would have to pay inheritance taxes on anything left to him by his mother. He also would not receive any Social Security survivor benefits. If I die, my partner would also be required to pay an inheritance tax of 18 percent on her own home due to unequal status before Nebraska law. This impacts our minor child because this costly discrimination could easily make our family homeless. I will end there. Thank you. [LB648]

SENATOR SEILER: Any questions of this witness? Thank you very much for your testimony. Further testimony. [LB648]

JOLENE SMYTH: (Exhibit 2) Hi. I'm Jolene Smyth, spelled S-m-y-t-h, just to confuse everybody. And I have an all-new respect for you guys sitting in these committee meetings. I thought our committees at the university were bad. (Laughter) So I'm here to testify on behalf of myself, as a resident of Nebraska, and my family. And I want to start just by saying that I feel incredibly lucky and happy to be living in Nebraska. I came here in 2007. I took a job as a professor at UNL, and at that point in my life I was really looking for a place where I could settle down and put down roots. Since coming to Nebraska, I've made great friends. I purchased a home in a neighborhood that I absolutely love. I've built wonderful relationships with my neighbors. I have a good job that I enjoy. And I think that I am making a positive contribution to my community through the work volunteering and community building that I do both within and outside of the university. But in 2012, I seriously considered leaving all of this behind because I was being recruited away by another university. And I asked myself at that time, why? Why would I leave all this stuff that is so valuable to me? The reason for that is because I have the most cute and wonderful five-year-old in the world and I have an absolutely wonderful partner who has been parenting him with me. She has been loving him and advocating for him from the moment he was conceived to this morning, when she got him up and made him breakfast and drove him to school in this crazy snowstorm. She contributes to all parts of his well-being, his

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physical, emotional, educational, and financial well-being. And we think we're doing a pretty good job of raising a citizen for this state who I think will represent us well and improve the state of Nebraska as he grows up. But we know that things can change very quickly on us. We've been in positions of...where I've had to choose between my work and his health/well-being, where I was unavailable because of work to help sign papers that he needed for medical...to get permission to do medical treatments. And when that happens, that's difficult for us, but what really bothers me is that my son Tyson stands to lose no matter what choice I make. If I am somehow judged inadequate for not being at work because I chose him, he's going to pay for that. If I choose...if I...excuse me. If I choose to work, then he has a health situation that is not dealt with. This is a problem that can be easily fixed by simply giving my partner legal connection to my son. In our case, we have resources. We know...I am a social scientist. We know that kids who have two parents oftentimes do better because of the resources that second parent brings. And we have resources that our second parent could bring, but we're just not allowed to use them here. I didn't leave Nebraska in 2012. I rolled the dice. I took a chance and hoped that nothing bad would happen to my family, but I don't know if that's good math. And I know that it has cost our state many, many talented people who have not been willing to come here or who have left because they weren't willing to take the risk that I took. I also know that my kid will be the one who pays the price for that risk and for all the reasons that you guys heard here. And it looks like I'm out of time here, but I just want to make the argument to you today that this is an issue about kids and this is an issue about the future of Nebraska. It's not just an issue about me. It's not just an issue about LGBT people. It's about having kids who can carry our state forward and who are great citizens of our state and doing the things that we need to do now to give them the resources to do that. [LB648]

SENATOR SEILER: Thank you for your testimony. Any questions? Thank you for your testimony. [LB648]

SENATOR PANSING BROOKS: Thank you. [LB648]

SENATOR SEILER: Another proponent. [LB648]

AMY MILLER: (Exhibit 3) Good afternoon, members of the committee. My name is Amy Miller. That's A-m-y M-i-l-l-e-r. I'm legal director for ACLU of Nebraska. I want to make clear that Senator Howard referenced the 2002 Nebraska Supreme Court case, In re Luke, citation for which is on the front page of our testimony. [LB648]

SENATOR SEILER: Okay. [LB648]

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AMY MILLER: That's not a case where the Nebraska Supreme Court said that those two women in some way were unfit or that a gay parent was inappropriate. The Nebraska Supreme Court just was following the normal separation-of-powers problem. They said, we're stuck interpreting the statutes. And the adoption section of the statutes are written with gender-specific language, husband-and-wife language which they said excluded everyone who was not married. The court emphasized, quote, the adoption statutes permit only the paradigms which are explicit, end quote. There were amicus curiae briefs filed by people who said all sorts of things about the morality and propriety of gay people and the Nebraska Supreme Court did not take the bait. They simply said, we have to interpret what you the Legislature provides us, which is why it's important for this bill to move forward, because the legal battle was fought and lost. The only way to change it is to change the wording of the state statutes. Now we may have additional law-school hypotheticals to talk about. The few that I wanted to hit were...I've been frequently asked, well, can't LGBT people just designate each other in the will so that the biological parent says, should I die, the nonbiological parent should be the new parent in the case of my death? I've quoted for you on the second page of the testimony. The difficulties are that the state statutes very explicitly say, we'll look at and give some attention to designations by testament or by will, but that's not going to be the dispositive answer. The judge will substitute his or her judgment for what is in the best interest of the child. And I've given you, close to the end there, two recent Nebraska cases, one from 2004 and one from 2009, where despite a clear testamentary designation the Nebraska Supreme Court said, we're going to place this child with some other person in the family. Now the reality is--you've already heard testimony--LGBT people face discrimination in all sectors of society, and many, many people sincerely believe that they are unfit parents. It is not hard to imagine that there may be a county court judge sitting on the bench somewhere in Nebraska that, confronted with the nonbiological parent and an aunt, uncle, or grandparent who wants the child instead, may decide, because of bias, that they're going to place the child, who has always known that parent, with someone else. You would hope that might get corrected on appeal. These cases shouldn't end up on appeal. Parents who are already second parenting should be able to go to an adoption court, step forward, and make themselves financially responsible so that, in the case that one parent wants to step away from the relationship, they're still on the hook for child support. I can answer some of the additional hypotheticals that were thrown out. I know I'm about to run out of time, so I'll pause just to say we thank Senator Howard very much for her proposal here. We hope that you'll advance LB648. And I'm happy to answer legal debate...legal hypotheticals, should you want to throw one at me. [LB648]

SENATOR SEILER: Senator Krist. [LB648]

SENATOR KRIST: Thank you, Chair. Just to set the stage, I am not a lawyer. I don't want to debate the legal ramification in law school format, but it's my responsibility to make sure that there are intended and unintended consequences and I know them both before I vote on a piece

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of legislation. So I know what this is about. I know the subject matter that's been presented and the people who have come in here. However, I have a concern, and the hypothetical is two biological parents, divorced, and now two more people...another person in the picture and primary custody would be assigned to, or partial custody assigned to, and that person wants to adopt. The legal rights of the other biological parent are still there in some way. And so can you take me through that hypothetical, as you called it? [LB648]

AMY MILLER: Absolutely. The single biological parent, so if we talk about...there's now a couple, heterosexual or a gay couple, and the lone former parent out on the own... [LB648]

SENATOR KRIST: Biological lone parent. [LB648]

AMY MILLER: Lone biological parent's rights cannot be terminated because his or her rights are also protected by the constitution. If you want to cut off a biological parent's rights, you have to go to court and do that before a second-parent adoption could ever be entered. So before the new happy couple could adopt with that second person, they would have to terminate the biological parent's rights by proving, for example, that he or she had abandoned the child, neglected the child. So that is already provided for in a whole separate set of statutes that talk about when you can terminate. There are times, even before you get to the paradigm of what happens with a same-sex couple, there are times just when a married couple splits up and say that the new wife's husband wants to adopt. But the former parent, the other dad, doesn't want to give up his rights, and he is never going to have to unless the court finds, for example, that he has abandoned the child by failing to have contact for two years, that sort of thing. So that would be true in this setting as well. [LB648]

SENATOR KRIST: So it's covered in other statutes. I understand that. Now let's take, for example...I forget the name of the lady who was here. Mara (phonetically)? ... [LB648]

AMY MILLER: Donna. [LB648]

SENATOR KRIST: Donna, who has a seven-year-old child, went to Texas. They now have parenting. They are both recognized. In Nebraska, they become separated or divorced. Take me through that hypothetical based upon a change in this. [LB648]

AMY MILLER: So the second case that Senator Howard referred to--In re Luke was an ACLU case that we lost, and then the irony of a second case went up that same year that she referenced--where a Pennsylvania couple had adopted a child together, the two women then moved to Nebraska. The relationship didn't work out, and the woman who had adopted second

attempted to walk away from that relationship saying, I shouldn't have to pay child support because Nebraska doesn't recognize second-parent adoptions. And mom number one was able to convince the Nebraska Supreme Court that the adoption license granted in Pennsylvania was valid and had to be recognized. So mom number two could not walk away. That's one reason why Donna's situation...that she is covered by having had an adoption when that couple was still together in Texas. Nebraska has said, we'll recognize adoptions that come from other states, we just won't protect our own children with them. I think there's a third hypothetical that I should throw out, as well: the couple that's together that is in Donna's situation that doesn't have an adoption granted and they split up and they live in Nebraska, there was no adoption. If Donna had been that circumstance, she probably also would have had some protection to still have visitation with her son because there's a legal concept called in loco parentis. And so because she was volunteering and stepping up, she or the divorced parent that we talked about earlier, they could probably still have some protections for visitation, pay child support. But it doesn't get to some of these other things. In loco parentis doesn't automatically protect in the case of the testamentary problem or in a situation where you're just talking about money. There's no way to command the federal government to pay out money for a child that wasn't legally adopted. So I want to be as clear as possible. You've heard some testimony about it. LGBT couples can go to lawyers and pay out the big bucks to put out some shreds of some legal protections for some things but not for everything. The full blanket of protections is only going to come with adoption and full legal parenthood. And that won't exclude any other existing legal parent because this won't affect any of those existing statutes that talk about the termination of biological parental rights. [LB648]

SENATOR KRIST: Thank you. [LB648]

AMY MILLER: Yes, sir. [LB648]

SENATOR SEILER: I was going to ask you the question. In your testimony, you set out the difference between 1 percent and 18 percent. But the difference in the exemption throws that 18 percent a lot higher. [LB648]

AMY MILLER: It is. You're right, Senator Seiler. And at the time that I wrote this testimony, I wasn't even thinking about that. When you talked about it today, I thought, oh, there's even more goodies that I should have thrown in. Yeah, there is a hefty price tag that comes with not recognizing these relationships. [LB648]

SENATOR SEILER: How stable do you think the Supreme Court is with the allegedly ten years and if you hold out a child as a parent that it can be...I know of one case went up under the inheritance tax and said he held this son out for 25 years and we're going to consider he's a son

under the inheritance tax law. But when it gets to your other issues that you raise, do you have any confidence that you can win those cases? [LB648]

AMY MILLER: As far as actual placement and custody, I have great hopes that the Nebraska Supreme Court has resisted the efforts or the temptation to go down a path of bigotry or discrimination. And so I do think that if a person tried to designate their child to go to their nonbiological parent, I think, even if they had a bigoted judge who tried to upset that, I have confidence in the Nebraska Supreme Court in doing the right thing. But appeals take a long time. Some of the cases I've had, it takes two--some years for those family law cases, and during that time that child would be separated from the person he thinks of as his mother. [LB648]

SENATOR SEILER: Any other? Yes, Senator Morfeld. [LB648]

SENATOR MORFELD: Ms. Miller--my favorite attorney in the state of Nebraska, just wanted to put that on the record--this goes a little bit outside the scope of just adoption. But in other states, and you may not know the answer to this, but in others, which I'd be shocked by, but in other states that have recognized same-sex marriage and other states that have recognized second-parent adoption, when two parents split up and you have a custody proceeding, how are they treated? Are they treated much different than heterosexual couples? Is it...I think the...I'm not a family law attorney. Is it in the best interest of the child or what's the... [LB648]

AMY MILLER: Still in the best interest of the child. [LB648]

SENATOR MORFELD: Okay. [LB648]

AMY MILLER: And most of those decisions are coming down pretty well, I would say. Again, you might have initial problems at a trial court level in a local small town, but usually those things get corrected on appeal. And you raised the question of marriage equality. There is to be said, of course, if Nebraska does finally grant marriage equality through federal law, then some issues of these adoption things may be resolved because the couples that you've already heard from could go get married and then, even by the Nebraska Supreme Court's interpretations of our state statutes, they'd be able to adopt together. I do want to point out that gay couples are not the only ones affected by not having second-parent adoption protections. I'm a single woman. If I had a child and I had a diagnosis of cancer, I may very well want to say, my brother, would you be a second parent, so the day that I do die, and maybe I won't, maybe I'll fight it and maybe I'll win chemo, but just in case, I want that legal protection. My brother and I also can't legally adopt. Two nuns can't adopt a child from Guatemala together. By not granting second-parent adoptions, we're actually impacting a pretty big chunk of society, some of whom may have it

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resolved if marriage equality happens, but there will be a number of people who will not have any protections granted. [LB648]

SENATOR MORFELD: Thank you. [LB648]

SENATOR SEILER: Seeing no further questions, you may step down. Thank you. [LB648]

AMY MILLER: Thank you. [LB648]

SENATOR SEILER: Further proponent. [LB648]

AMY WEST: (Exhibit 4) Hello. Again, my name is Amy West, A-m-y W-e-s-t, and I'm here on behalf of the Nebraska chapter of the National Association of Social Workers in support of LB648. On September 30, 2013, there were 705 Nebraska children waiting to be adopted. If you visit the Nebraska Heart Gallery, a professional photo exhibit of hard-to-place children who are in need of an adoptive home, you can see the faces of a small group of these kids. Some are older and more difficult to place due to their age. Some are part of a sibling group who need to be placed together. And some have high medical needs. All of them are in need of homes to give them the unconditional love that any child deserves. Over the years, I periodically check back and read through the profiles again and, sadly, I see some of these children over and over again, every time, still waiting for a family. I've met a few of them through my work in the field of foster care and I know a handful well. One is an 18-year-old young lady still dreaming of finding her forever family. What she wants is a family to be there for her through thick and thin. Another is a 14-year-old young man. He wants to be a football player, a police officer, or a real estate agent when he grows up. Right now, Nebraska is making it harder for these children to find the families they need by creating barriers and intentionally making it more difficult for some families to adopt. Study after study show that children raised by same-sex parents do as well emotionally, cognitively, educationally, socially, and behaviorally as children raised by opposite-sex couples, and I've cited many of these in my written testimony. And articles claiming otherwise, including the Regnerus study that was mentioned earlier, are shown to be flawed and not conclusive. For those families already jointly parenting a child, passing LB648 means both parents are able to have a legal relationship with their child, which ensures children have access to private health care, a sense of normalcy, and the ability to stay in their own home in the unfortunate instance of the death of one of their parents. As you're making your decision about whether to advance this bill and the last bill, I challenge you to visit nebraskaheartgallery.com. Look into the faces of children waiting for a loving family to come along. Why would we want to make that any harder for these children to find? I also ask you to remember the families whose stories you've heard today and all of the other families in Nebraska who would be impacted by this bill. These parents deserve to be their children's legal parents and their children deserve that

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as well. We want to thank Senator Howard for her dedication to this issue and the committee again for your time and consideration. And we ask that you advance this bill. Thank you. [LB648]

SENATOR SEILER: Questions? Thank you for your testimony. [LB648]

AMY WEST: Thank you. [LB648]

SENATOR SEILER: Further proponent. Seeing nobody jumping up, opponent, people who want to speak against this bill. [LB648]

GREG SCHLEPPENBACH: (Exhibit 5) Senator Seiler and members of the Judiciary Committee, my name is Greg Schleppebach, spelled S-c-h-l-e-p-p-e-n-b-a-c-h, and I am the executive director of the Nebraska Catholic Conference. I'm also submitting testimony on behalf of Catholic Charities of Omaha, Sue Malloy, who does family and adoption services for Catholic Charities. It is a firm tenet of Catholic social teaching and the view of many citizens of goodwill that the foundation of family life is marriage and that the interests of children are best served when they are raised in a home with a mother and father who are married to each other and who contribute in gender-complementary ways to the healthy development of their children. In the view of the Catholic bishops serving in Nebraska, this traditional structure of family life should be upheld and affirmed as the public policy standard of and objective for adoption in Nebraska. The bishops conference is confident in the extensive social science research that concludes that marriage and family structure do indeed matter, and that dual-gender parenting provided through marriage is the optimal, most stable social structure for protecting, nurturing, and preparing children for well-adjusted, productive participation in society. As a general time-tested rule, it is vitally important that the gender-specific roles of both mothers and fathers are functional in family dynamics. Both mothers and fathers provide unique and irreplaceable contributions to the intellectual, emotional, moral, psychological, and social development of children. The historical and prevailing legal standard for adoption is the best interest of the child. Because of a home with a married mother and father is the optimal nurturing environment and because mothers and fathers contribute different but equally important parenting roles and attributes to child rearing, it stands to reason that public policy in this state should uphold, endorse, and encourage both parenting roles within marriage. Our second reason for opposition to LB648 stems from the understanding that the state has a legitimate interest in insisting that parents have a legal commitment to each other before they can make a permanent legal commitment to a child. Marriage at least provides some indication that the couple intends a permanent legal relationship. Allowing adoption where parents have no legally recognized relationships to each other would, overall, place more children in unstable living arrangements. Married parents have legal rights and processes in any custody dispute upon dissolution of their legally recognized relationship. It

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is not difficult or irrational to envision the potential for legal uncertainty and nebulous custody issues if two nonmarried persons were allowed to jointly adopt and subsequently parted ways or subsequently entered into legally valid marriages with someone else. A mechanism may exist, but resolving custody disputes where the parents are not married to each other is new ground. It could be more difficult. This existence of legal uncertainty in absence of continuity and stability could be emotionally and psychologically harmful for the children. [LB648]

SENATOR SEILER: Thank you. [LB648]

GREG SCHLEPPENBACH: Thank you. [LB648]

SENATOR SEILER: Any questions? Senator Morfeld. [LB648]

SENATOR MORFELD: Mr. Schleppenbach, so there's a few different themes that came up in your testimony here, first, what's optimal for the child. Under our current system, and I think I already answered this before so it's a little bit of a rhetorical question, we determine whether or not somebody is fit to be a foster parent or an adoptive parent on a case-by-case basis, correct? [LB648]

GREG SCHLEPPENBACH: Yeah, I believe that's true. [LB648]

SENATOR MORFELD: Okay. So if we create standards within the state, which we already do have standards out there, and perhaps we even strengthen those standards where we determine whether or not two people are fit to adopt, shouldn't those individuals be able to adopt? Or should we actually change the standards for everyone to be able to adopt, rather than just letting some people be able to adopt and some people not? [LB648]

GREG SCHLEPPENBACH: Well, again, I think, as I stated in my testimony, that the state's interest is in ensuring the well-being of children. And historically, and I think even, you know, by any study pretty much out there, that a married, committed, married husband and wife is the best environment for the raising of a child, and that should continue to be the standard, and that it is risky to go down the path of allowing two unrelated persons who are not...don't first commit to each other in a legally recognized way to be given the responsibility of raising a child. [LB648]

SENATOR MORFELD: I guess that leads me to your second theme, which was the fact that gay people cannot be legally recognized right now in this state, at least, and there's a lot of other states that have changed that, that it might not be the most stable environment for them. That was kind of the second theme that came out of your testimony. Now say gay marriage is allowed in

the state of Nebraska, whether by district court or federal Supreme Court. Does that change the calculus for you? [LB648]

GREG SCHLEPPENBACH: It...I suppose, in one...to one degree, maybe it does, because there is, as the point that I made, a commitment being made by that same-sex couple. I would say it's still not a marriage in the true sense of the word, that is, intended to bring mothers and fathers together for the raising of their children, of children, period. And so there is an important aspect of both masculinity and femininity in the raising of a child. And that's one of the reasons why we think that same-sex marriage should not be allowed, that it is not a true sense of marriage, which is...brings people together for the best interest of children. [LB648]

SENATOR MORFELD: Okay. And can you elaborate a little bit further on the masculinity and femininity--I can't say that word, I'm sorry, just realized that--can you elaborate a little bit more on what those attributes are and how they're important and the lack thereof? [LB648]

GREG SCHLEPPENBACH: I'll harken back to what I think is pretty well recognized and accepted studies and data back when there was a big marriage initiative and a big fatherhood initiative that was taking place, that we can recognize that homes where there is not a father present oftentimes are...have more difficulties. Obviously, you've talked about your own personal situation. There clearly are exceptions to that. But I think any...almost in any situation people would recognize that's not the ideal. The ideal is to have both mother and father there and that the father's presence and the mother's presence bring...we're different. Men and women are different. I don't think anybody denies that. Men have different characteristics than women. Women have different characteristics and bring different attributes and experiences to a relationship. I just...I don't understand what is not clear about the reality that men and women are different. [LB648]

SENATOR MORFELD: I think men and women are different. I agree with you there. However, I would just state, and this is just a statement, you can respond, too, if you'd like, sir, that successful families and successful relationships come in all shapes and sizes and that I don't think that we want the state or the government, other than looking at the best interest of the child, determining which parents, simply based on their sex, are fit and not fit. I've seen families where there's a mother and a father in a household that are not very good family units. I've been a part of them: when my mother was a single mother. And I've also seen gay families that are very loving environments. And so I just think that the criteria and the rationale that you're using is arbitrary. I think that historical context that you provide, I don't put too much weight to historical context. Historically, we discriminated against African-Americans and whites and didn't allow African-Americans and whites to adopt or marry. But I think that we've all moved past that. Historically, we haven't had enough parents and loving families for our children just here in the

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state of Nebraska. And so I think that this criteria and this rationale that you're using, it's not actually in the best interest of the child. It's simply in the interest of past tradition, which clearly has not worked up until this point. So that's all I have to say. But you can respond, please. [LB648]

GREG SCHLEPPENBACH: Well, I would just say that I couldn't agree with you more that, obviously, it is very possible for good outcomes to come from a variety of different family situations, no question about it. But I also believe that most any single parent would say it's a lot easier and a lot better to be able to raise a child in a healthy married relationship, assuming it's a healthy married relationship. And we need to do a lot more to ensure that, that we have good, healthy marriages for the well-being of children. That's the key, and I think there's plenty of good social science out there. We can debate back and forth all day long on whose research is more compelling, the other...I'm not even going to go down that path. But I would say that, at the very least, there is very strong reason to question whether or not this evidence that other alternate family situations for raising children are equally as good as a mother and a father. [LB648]

SENATOR MORFELD: Thank you very much. [LB648]

SENATOR SEILER: Any further questions? Senator Pansing Brooks. [LB648]

SENATOR PANSING BROOKS: Thank you. Mr. Schleppenbach, you talked about the ideal, the ideal family, and I just...you talked about making sure that it had a man and a woman and that that is the ideal. And I would agree that there are ideals and things that we should strive to attain. In my estimation, love is the ideal. And so I'm surprised that you take the sexes as the ideal, rather than love as being the ideal. [LB648]

GREG SCHLEPPENBACH: I would say both are ideal, both are necessary. [LB648]

SENATOR PANSING BROOKS: You didn't say that, but you do say they are both necessary. [LB648]

GREG SCHLEPPENBACH: Absolutely, both are necessary. [LB648]

SENATOR PANSING BROOKS: Okay. And of course we live in a state where we've just heard what the numbers are for the children. There are children out there hurting. And in your estimation, it's better for them to be in a group home or alone or in a much more difficult situation than even considering subjecting them to a homosexual or lesbian or transgender couple. Is that correct? [LB648]

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GREG SCHLEPPENBACH: Well, this bill goes and addresses far more than just a homosexual couple situation, as you know, any two adults. In fact, it doesn't even mention the word "homosexual" or "sexual orientation." This is about two adults, any two adults adopting. So I...my concerns transcend... [LB648]

SENATOR PANSING BROOKS: So what are you here testifying against? [LB648]

GREG SCHLEPPENBACH: I'm sorry? [LB648]

SENATOR PANSING BROOKS: What are you opposing then? [LB648]

GREG SCHLEPPENBACH: Opposing this bill, the allowance of two unrelated, cohabiting adults to be able to adopt. [LB648]

SENATOR PANSING BROOKS: Okay, but you did speak about a man and a woman and that ideal. [LB648]

GREG SCHLEPPENBACH: That...sure, that I believe that that is the ideal situation for the raising of children. [LB648]

SENATOR PANSING BROOKS: Okay, excuse me. I just...you said you weren't here to testify on that and you did speak to that, so that's why I'm asking you about it. [LB648]

GREG SCHLEPPENBACH: I was asked a question that I was responding to. [LB648]

SENATOR PANSING BROOKS: Okay. [LB648]

SENATOR SEILER: Any further questions? Seeing none, thank you for your testimony. Further opponents. [LB648]

JOE NEUHAUS: Good afternoon, Chairman Seiler and members of the Judiciary Committee. Thank you for the opportunity to testify today. My name is Joe Neuhaus, J-o-e N-e-u-h-a-u-s, and I am the policy director for Nebraska Family Alliance here in Lincoln. I appear before the committee today to signify our opposition to LB648. I don't want to belabor the committee any more than it needs to be. We believe that every person should be treated with dignity and respect. In our estimation, LB648, similar to LB647, rather than considering the best interest of the adoptive children, seeks to advance the interest of prospective adoptive parents. At first I would

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quickly draw your attention to page 2, lines 6-9 of the bill, where it fails to state with any degree of certainty what the new status of the other adult would be. Perhaps it is assumed that the other adult will become a parent, but I would note the need for specificity on that. I am not here to say that single parents or homosexual parents cannot do a fine job of parenting, and Senator Morfeld provided a great example of that. I am here to say that we believe the care of a low-conflict, loving, biological mother and father is the ideal structure in which children may thrive. And we've already discussed that, so I won't belabor that issue. We believe that Nebraska's laws should mimic as closely as possible the ideal structure, especially when it comes to the raising of children. One of our other primary concerns is that there are apparently innumerable variations of possible adults who may adopt under this bill: parent and child; siblings; and the list goes on. If the proponents of this bill seek to legalize same-sex-couple adoption, the bill does not communicate that goal explicitly. Again, the laws of Nebraska should protect children, not undermine the right to a safe, secure home. According to Judith Wallerstein, author of a 25-year divorce study, if the truth be told and if we are able to face it, the history of our society is replete with unwarranted assumptions that adults have made about children simply because such assumptions are congenial to the adult needs and wishes. Therefore, I respectfully urge you to vote no on LB648. Thank you for your time. [LB648]

SENATOR SEILER: Questions? Bob--or Senator Krist. [LB648]

SENATOR KRIST: Thank you for your testimony. Thank you, Chair. I, too, find problems with the wording of the bill, and I'm not going to take either side or cheer-lead on either side. I'm just going to simply say, line 17, "Any adult child may be adopted by any person or," and if the statute was left the way it was, it would have been "persons." Now that's important to me because I have a lot of exposure to special-needs children and the need for an adult to be adopted by a person or persons. I find it unnecessary to elaborate that those two persons jointly, regardless of their marital status, because it was written as any person or persons, subject to Sections 43-101, 43-115, and that language is left in. It causes me pause, even though I'm not a lawyer, to say, why did we make this change and how does this change make it better for all people, not just singularly the LGBTQ or the homosexual or...I'm sorry, the heterosexual or anyone else? So I share your opinion that the language in itself in the bill may not be where it needs to go. And as a person who has been here for several years, I can tell you that that's how I analyze and look at a bill and respectfully will listen to testimony as it comes up. And I appreciate the fact that you now are looking, we are now focusing on a technical side of the script. And so thank you for your testimony. [LB648]

JOE NEUHAUS: Thank you. [LB648]

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SENATOR SEILER: Any further questions? Seeing none, thank you for your testimony. [LB648]

JOE NEUHAUS: Thank you. [LB648]

SENATOR SEILER: Further testimony for the opponents. [LB648]

WILLIAM FEMI AWODELE: Hi. Good afternoon. My name is Femi Awodele, F-e-m-i A-w-o-d-e-l-e, from Omaha. Good afternoon, Senator Seiler and members of the Judiciary Committee. I am here to testify against LB648. I am a parent of three teenagers. My wife and I are looking forward to having a party after that. And I am here to oppose this on two reasons: number one, on scientific reasons; and number two, on the issue of liabilities and legal issues, even though I'm not a lawyer. Now I have been reading. I am not a doctor. And I've slept a few times at Holiday Inn Express. But I can say that men and women are very different from the chromosomes that we have to the hormone that flows in us to the red cells and different things in us. And if my memory serves me right, when my wife was raising...when we're raising children, I could not feed them, give them milk when they were crying at night. So there are things that a mother does and there are things that father does, even as adults. I'm also an adoptive father, and this bill particularly said two adults. And I have a sophomore in college and I'm trying to imagine him and his dorm-room friend adopting his sister. That will have been really interesting. Even though this bill, I'm kind of sure that it's really more for the LGBT community, but it states that any two adults, and to me that is like looking for trouble where there is none. This bill also will bring a lot of liability and legal issues. As it has been said earlier, in terms of what are the commitment of the two adults, can one just walk out? If one walks out, what's going to happen to the parents? So it's really looking for trouble when we say any, any two adults, any two adults. We are looking for trouble. So based on those two reasons, I think this bill should not go forward. [LB648]

SENATOR SEILER: Any questions? Yes. [LB648]

SENATOR PANSING BROOKS: Were you bringing up...thank you for testifying, Mr. Awooley (phonetically). [LB648]

WILLIAM FEMI AWODELE: Yes, ma'am. [LB648]

SENATOR PANSING BROOKS: Sorry, don't know how to say your last name. [LB648]

WILLIAM FEMI AWODELE: Just call me Femi. [LB648]

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SENATOR PANSING BROOKS: Okay. Anyway, thank you for coming. I guess what I was wondering was, you mentioned if your son adopted your daughter, like if you and your wife died and then... [LB648]

WILLIAM FEMI AWODELE: No, I did not say my wife and I dying. [LB648]

SENATOR PANSING BROOKS: Oh. [LB648]

WILLIAM FEMI AWODELE: And hopefully that will be awhile. But what I'm saying is I have three teenagers now, so...and this bill says any two adults. [LB648]

SENATOR PANSING BROOKS: Okay. [LB648]

WILLIAM FEMI AWODELE: One of my teenagers is an adult based on state law. So I'm just imagining him being a sophomore in college and him in his door room (mate) say, hey, let's go adopt, and then they adopt. My daughter is adopted and she's a special need. And I thank God every day for the grace God has given us to still survive, but we're doing well. So any two adult cannot adopt such a child is what I'm trying to say, more or less, and two 19-year-old who are both adult by state law. [LB648]

SENATOR PANSING BROOKS: Thank you very much for your testimony. [LB648]

WILLIAM FEMI AWODELE: Thank you. [LB648]

SENATOR SEILER: Thank you. [LB648]

WILLIAM FEMI AWODELE: Thank you. [LB648]

SENATOR SEILER: Further opponents. [LB648]

AMBER PARKER: Hi. Again, my name is Amber Parker, A-m-b-e-r, Parker, P-a-r-k-e-r. I understand usually in rules we're not able to ask the state senators questions and things like that. But I am opposed to LB648. I'm going to take a little bit of a different route. One of the reasons I am opposed to it is I have went through this bill--and again, I'm not an attorney--but if anyone could answer, are there any religious exemptions for adoption agencies or Christian adoption agencies that would have an issue in adopting to a homosexual couple? This is one of the things that I see. And I look at...any time I read a legislative bill, I want to focus: What are the roots,

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what's the foundation, and what is this based upon? I myself am adopted. I was adopted when...I believe I was age six. I was taken out of a violent home, myself and another sibling, and I'm greatly thankful. My real father was very abusive and it's a miracle that I'm before you here today. Having a loving home is so important. And I don't think we're questioning of people having loving homes but what is best for children. As state senators, you have to look at every aspect, pros and cons. This LB648 at this time has so many cons and I believe will open a door to infringe upon the religious liberties of those agencies who would have an issue in adopting to a homosexual couple. Now that's not the wording, but we have to look beyond the wording. I believe also that LB648 also would bring an issue of favoritism and set up in our state of Nebraska people being fearful out of discrimination and lawsuits that, if a husband and wife got a child ahead of the same-sex couple, that they could cry out discrimination based upon LB648. I think again we have to keep the focus on what is best for the children. I also am aware that we have wills. My husband and I have actually been asked to, if something happened to our friends, to become guardians over children. And I believe that there were some half-truths, not full truths, spoken in that area. But again, I'm not an attorney, nor in any family law practice, but I think those questions, State Senators, should definitely be addressed. Again, I'm against LB648. I believe it's another way to bully our state and those who would have religious beliefs against same-sex couples in raising children. [LB648]

SENATOR SEILER: Any questions? Seeing none, thank you for your testimony. Further opponents. [LB648]

MATT HEFFRON: (Exhibit 6) Senator Seiler, members of the committee, I was here earlier. My name is Matt Heffron. I'm an attorney in Omaha, Nebraska. I look at LB648 from a lawyer's point of view and ask, how will this cover certain situations, or how should it...how would it not cover certain situations? And I think what...the conclusion I come to is that this is poorly written in many senses, and it needs to be rewritten and cover certain or to close certain aspects that it now leaves open. For instance, there is no requirement in LB648 of any sort of cohabitation or common residence. And before anyone jumps on me, I realize that the prior version also said that person or persons could adopt. But the presumption is, Mr. Schleppenbach brought out, is that it would be a married couple in the same house. So I present this to you: Another adult and I have our own separate houses, perhaps in different areas of the city or even different areas of the state. We have no intent to establish a common household. We just both would like to have a child and no commitment of marriage is required. The child could be shuttled back and forth. There's nothing in LB648 to stop that situation. Here's another instance that shows this is ripe for abuse. Two current housemates are sharing the rent and decide it would be fulfilling to have a child. There is nothing in LB648 that would keep them from adopting. If the two broke up, if the two went to different places, they would still have adopted that child. Here's another one. Two male coworkers decide to adopt a 14-year-old girl. Now that should set off alarms, I would think. But under this bill, that would be allowed, since marriage is specifically, specifically no longer

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required. Here's another situation that could raise or could cause legal conflicts. Marriage or the status of marriage under LB648 could actually be a disqualifier. In fact, I'd call it the marriage disqualifier. The only people who cannot adopt singly with another person is a married couple. So if one member of the marriage decides she or he would like to adopt, the other does not, this particular person who would like to adopt, part of the marriage couple, cannot adopt with someone outside the marriage. That may seem like a crazy situation, but I think we've seen a number of crazy situations. So if you're married, you're disqualified. This bill needs to be rewritten. There are just too many problems with it as it is currently written. Nothing further. [LB648]

SENATOR SEILER: Any further questions? Seeing none, thank you for your testimony. Further pro...people that want to testify against this bill. [LB648]

DAVID MEYER: I'm just submitting my testimony, resubmitting it, from LB647. [LB648]

SENATOR SEILER: Okay, thank you. It'll be made part of the transcript. Any further opponents? You may proceed. [LB648]

MARIS BENTLEY: Okay, thank you. My name is Maris Bentley. I reside in Omaha, Nebraska. I previously testified against LB647 and I would like to actually repeat some of what I said. I mentioned at the time that I'm a retired teacher and school counselor. And teachers believe in repetition and, plus, I can get to finish then what I had started and didn't quite get a chance to finish. As I mentioned, these bills are not about equality. They are about the promotion of the desires of adults. These bills are not about helping children. It is the exact opposite of helping children to promote sexual misbehavior, behavior which tears apart the natural family. After all, like I mentioned, it always takes an egg and a sperm to create new human life. And I would like you to seriously consider the words of some of the adults in our culture raised in homosexual households who the ones that I'm quoting were...have filed amicus briefs with SCOTUS regarding same-sex marriage. And we need to listen to these voices and again take with a grain of salt the voices of children who are trotted out at these hearings to validate the lifestyles of their parents. Here is what Katy Faust says in her testimony: When two adults who cannot procreate want to raise children together, where do those babies come from? Each child is conceived by a mother and a father to whom that child has a natural right. When a child is placed in a same-sex-headed household, that child will miss out on at least one critical parental relationship and a vital dual-gender influence. The nature of the adults' union guarantees this. Whether by adoption, divorce, third-party reproduction, foster care placement, the adults in this scenario satisfy their heart's desires while the child bears the most significant cost: missing out on one or more of their biological parents. And I've concluded also with the words of Katy Faust that I didn't get to finish and I hope to finish them now. She validates that there's no difference in

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the dignity and value of all human beings, homosexual or heterosexual. But she goes on to say this: However, when it comes to procreation and child-rearing, same-sex couples and opposite-sex couples are substantially unequal and should be treated differently for the sake of the children. Making policy that intentionally deprives children of their fundamental rights to both parents, their biological mother and father, is something that we should not endorse, incentivize, or promote, unquote, or end of quote, I should say. I am hopeful that you senators are willing to think more deeply about these issues than those who put the idea of equality above all else with little consideration as to the best interests of children. Thank you. [LB648]

SENATOR SEILER: Questions? Thank you very much for your testimony. [LB648]

MARIS BENTLEY: Thank you. [LB648]

SENATOR SEILER: Further opponent. Seeing nobody getting up, anybody in the neutral. Bet that doesn't happen. (Laughter) Senator, you may close. [LB648]

SENATOR HOWARD: (Exhibits 7 and 8) Thank you, Chairman Seiler and members of the committee, for considering LB648. I appreciate your time and I know it's been a long day. I did want to clarify a few things that came up during our conversations. One is around the language of the bill. And so Senator Krist, who I apologize is not here but I will touch base with him on it, as well, when we consider the finding of In re Luke, one of the reasons why the Supreme Court found that the state of Nebraska required people to be married was because in the language of the statute, line 17 down on page 1, we say that if a husband or a wife would like to adopt, they have to tell the other one that they plan on doing it. So the court has really interpreted saying that you have to tell your spouse, either your husband or your wife, that you intend to adopt as you have to be married. And so because of that interpretation, the language of this bill specifically states that, regardless of your marital status, you are able to adopt jointly. So it's there for a reason and it's there because of the court case. The other issue that sort of came to my attention during the hearing was around adoptions and sort of whether or not this creates...makes it easier to get adoptions. And in the state of Nebraska, it is actually quite arduous to get an adoption. I have printed the Department of Health and Human Services' requirements for adoptive parents. And then I've also printed a flowchart of adoptions, which is a guide for--this is just for me, thank you--which is sort of a flowchart of how many hoops a person has to jump through in order to adopt a child. This is not something where two roommates together would say, hey, we have a Friday night free and we're going to adopt a child. This is more something where you make a decision and you go through a really rigorous process. My mother was a social worker for 34 years before she was a member of this body. And in the last ten years, she was an adoption specialist for the state of Nebraska. And so in that role she was doing high-risk adoptions and they are not something that happened overnight. They're not something where if you're unable to

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provide a safe, stable, and loving home you would be able to achieve. And so with that I would close and offer myself for any questions. [LB648]

SENATOR SEILER: Any questions? I don't see any. Let me ask you a question. [LB648]

SENATOR HOWARD: Yes, sir. [LB648]

SENATOR SEILER: It seemed to me, and I'm going back a long time so the law could have changed, that when you adopted you had to have the child in your home for four to six months. [LB648]

SENATOR HOWARD: Right, so they do a preplacement. [LB648]

SENATOR SEILER: I didn't see that on your flowchart. That's why I was... [LB648]

SENATOR HOWARD: On the flowchart, you see the child is placed, on page 7, and then there's a postplacement period. Generally, it's six to eight months. [LB648]

SENATOR SEILER: Oh, wait a minute. Okay. [LB648]

SENATOR HOWARD: But it really just depends. Obviously, at this point, when a child is placed in your home for adoption, there would be a termination and then they would be available for adoption. [LB648]

SENATOR SEILER: Okay. I was looking for the term, how long it was. [LB648]

SENATOR HOWARD: No, and... [LB648]

SENATOR SEILER: But you just have child placed. [LB648]

SENATOR HOWARD: And that's sort of... [LB648]

SENATOR SEILER: That's fine. [LB648]

SENATOR HOWARD: ...a caseworker preference often, is how long it takes for the adoption. [LB648]

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SENATOR SEILER: No problem. Any further questions? None? Thank you for closing.
[LB648]

SENATOR HOWARD: Thank you, Chairman Seiler. Thank you for your time. [LB648]

SENATOR SEILER: (Exhibits 9 and 10) We will close the record at this time, adopting the written documents that have been submitted to us, as well as any transcripts out on the podium that people may have wanted to support one way or the other. We will open now with Senator Morfeld's bill of LB586. [LB648 LB586]

SENATOR MORFELD: Chairman Seiler, members of Judiciary Committee, this should be a quick one. I think it's pretty noncontroversial, so (laughter)...my name is Adam Morfeld. That's M-o-r-f-e-l-d, and I represent the "Fightin'" 46th Legislative District, here today to introduce LB586. LB586 relates to employment and prohibits discrimination based on sexual orientation and gender identity. Before I continue, I'd like to take this opportunity to thank those who have come before me to fight this valiant effort. Senator Chambers has introduced a version of this bill many times and, more recently, my predecessor, who I think just had to leave to pick up her child, Senator Conrad, introduced LB485 last year. I am proud to continue to the tradition of District 46 fighting for equal rights for all Nebraskans. I want to thank them for their work on behalf of fairness for all. Under LB586, it would be an unlawful employment practice for an employer, an employment agency, or a labor organization to discriminate against an individual on the basis of sexual orientation and gender identity. The bill applies to employers having 15 or more employees, employers with state contracts regardless of the number of employees, the state of Nebraska governmental agencies, and political subdivisions. Current law prohibits discrimination based on race, color, religion, sex, disability, marital status, or national origin. This would add sexual orientation and gender identity. As a young Nebraskan, this time for...excuse me, the time for this commonsense protection has not only come, but it has passed. We must act to protect Nebraskans against being fired simply for who they are and who they love. Equality under the law and justice demands it. And make no mistake, Nebraskans are currently being fired just for who they are, and many are afraid to speak out. In addition to this protection being an issue of equality and justice, it is about Nebraska remaining competitive in the 21st century. We must provide basic protections afforded by most civilized industrial nations to protect LGBT Nebraskans. Businesses both large and small are more competitive when these fundamental protections are provided because they are better able to attract talent from all over the country and world. You will hear from several of these businesses today. In fact, 91 Nebraska businesses have already signed onto the Human Rights Campaign's Equality is our Business pledge. These businesses include not only ConAgra, TD Ameritrade, Union Pacific, and Blue Cross/Blue Shield, but also small businesses like State Nebraska Bank and Trust in Wayne and Vitality Chiropractic in Ogallala. We certainly will not be alone, either. Currently, nearly half of our fellow states have enacted similar laws, along with about 180 local governments. The United

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States military has ended don't ask, don't tell, and our largest city, Omaha, has enacted an ordinance several years ago that provides a very similar protection. Since Omaha enacted the ordinance in 2012, there has been no negative side effects. Both small and large businesses remain strong. Churches thrive and democracy has not collapsed. Further, the Nebraska Code of Professional Responsibility that governs me as an attorney and the Code of Judicial Conduct that governs Nebraska judges bans discrimination based on sexual orientation. The ability to discriminate against someone in the workplace because someone is lesbian, gay, bisexual, or transgendered, because of religious or other moral objections, should have no place in our modern democracy. We do not allow religious or other institutions to discriminate in the workplace because someone is black, a woman, a man, or even married, which is a status that no one is born with but, rather, chosen. LGBT Nebraskans are mothers, fathers, brothers, and sisters, taxpayers and, most importantly, humans, and they should be treated with the same dignity and respect as everyone else. I introduced LB586 because I believe no one should be fired for who they are or who they love. I'm honored that both the Lincoln and Omaha Chamber of Commerce, along with businesses across the state, have decided to fully support this legislation. It's a simple matter of fairness and justice and I urge you to advance LB586 to the floor. I'd be more than happy to answer any questions. And I know the representative from the Omaha Chamber of Commerce has to leave very soon, too, so I'd ask that he be allowed to speak after me. [LB586]

SENATOR SEILER: Any questions? Senator Williams. [LB586]

SENATOR WILLIAMS: I have one quick question, Senator Morfeld. Why 15 employees? Why was that level picked? [LB586]

SENATOR MORFELD: There is some historical significance with that with...oh, I'm forgetting the name of the act that this follows. But it would put it in line with statutory...with other statute, complying with this,... [LB586]

SENATOR PANSING BROOKS: Small business, small business. [LB586]

SENATOR MORFELD: ...small businesses. [LB586]

SENATOR WILLIAMS: Thank you. [LB586]

SENATOR SEILER: I have a problem if you're discriminating. [LB586]

SENATOR MORFELD: I can make it for one person, Senator. [LB586]

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SENATOR SEILER: Yeah. [LB586]

SENATOR MORFELD: You just...you make the amendment. I'll be there for you in Executive Session. [LB586]

SENATOR SEILER: If it's discrimination, it seems to me, it's discrimination. [LB586]

SENATOR MORFELD: Fair enough, Senator. I'm with you on that. [LB586]

SENATOR SEILER: Okay. [LB586]

SENATOR MORFELD: I'm just trying to make it fit with our current statutory framework, which I think you appreciate sometimes, Senator. [LB586]

SENATOR SEILER: Thank you. Any other questions? Thank you. [LB586]

SENATOR MORFELD: And I think the Omaha Chamber of Commerce is up here. [LB586]

SENATOR SEILER: That will be fine. [LB586]

SENATOR MORFELD: Yep. Thank you, Senators. [LB586]

SENATOR SEILER: Senator Morfeld, in a contested situation, we request you sit in the audience. Welcome. [LB586]

CLARK LAURITZEN: (Exhibit 1) Thank you. Chairman Seiler, members of the committee, I'm Clark Lauritzen, C-l-a-r-k L-a-u-r-i-t-z-e-n, and I am the chairman of the Greater Omaha Chamber of Commerce. Thank you for inviting me to speak here today in support of LB586 which we have endorsed as a chamber. Our organization's support is based on several factors. First and foremost, we believe passing a law like this is the right thing to do. We do not believe in discrimination of any kind, and we believe that the employees of companies in Nebraska have the right not to be discriminated against by their employer. Furthermore, we believe these employees should be free to be who they are and not live in fear that they might be terminated based on a discriminatory bias. We also do not believe a prospective employee applying for a job should be disadvantaged in any way by who they are or have to hide who they are in order to gain employment. Secondly, we believe this bill would have a tremendous economic impact on economic development in our state. Employees who are considering where to live consider a

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wide range of factors and, increasingly, this issue is a deciding factor. Talented employees want to work in an environment that is open, welcoming, and nondiscriminatory. At the chamber, we work hard every day to get more of these talented employees to move or stay in Nebraska, yet we hear direct feedback from talented people who do not want to work in Nebraska because the state does not offer protection from discrimination based on sexual orientation. It is not just employees who focus on this issue but also employers who make choices every day as to where they will locate their businesses. Increasingly, employers consider this issue when they make those important decisions that will impact the growth and future opportunities available in our state. We should all work together to remove barriers to economic and work force development, and passing this bill would absolutely move us in that direction as a state. There are some who might argue that our motivations are purely for economic development. Yes, we do believe this bill would help economic development in our state, but it would also help employees who work across our state. It would allow our employers to find and hire the best people and it would allow our best people to find employment, regardless of their sexual orientation. This bill is good for employees and employers, and the benefits are not mutually exclusive. There are some who will argue this bill would create a burden or unnecessary cost on business. I can tell you that we do not believe that, and the facts do not support this claim. Since Omaha passed a similar law in 2012, there have been very few claims or cost to businesses as a result. Also, many of the companies who operate in Nebraska already have policies aligned with this bill, so we do not see any meaningful claims or cost as a result of these policies. Instead, what we do see every day are talented, hardworking, and engaged employees who love working somewhere where they can use their talents fully, without fear of lawful discrimination. Lastly, and very importantly, I would urge the members of the Legislature to pass this bill now, in 2015, rather than waiting for another time. I'm confident that a bill like this or this bill will pass in Nebraska, just as it has in 21 states and the city of Omaha. Other states have similar measures before their legislatures and the longer we wait, the more we fall behind, the more our image appears to be one of a state that is not welcoming to all, and the more good talent and jobs that we will lose to other states. A vote to defeat an antidiscrimination proposal does give the impression that a state has voted to discriminate and it does get noticed by people outside of Nebraska. In particular, it is worth noting that our neighboring states of Iowa and Colorado prohibit such discrimination, as do Minnesota, Wisconsin, and Illinois. In an era where labor is increasingly mobile, we cannot afford to give good people a reason to leave our state or choose another state over ours. Recently, it was reported that Nebraska's unemployment rate is 2.9 percent. While this is a great statistic, it also presents one of the greatest challenges of Nebraska's employers, and that is finding available talent. We should help employers attract and retain that talent while also doing the right thing for the citizens of Nebraska. Nebraska is a wonderful state. Our greatest asset as a state is our people. I would respectfully ask the members of the committee to pass LB586 and allow our state to further grow and benefit all of its people for generations to come. Thank you very much for having me here today. I'd welcome any questions from the committee. [LB586]

SENATOR SEILER: Senator Williams. [LB586]

SENATOR WILLIAMS: Thank you, Mr. Lauritzen, for being here today. Traveling in my district, which is in central Nebraska, it was clear that we continue, as people seeking these jobs as Senators, to promise that we're going to do things to create new jobs. But the plain fact in our district and mostly across this state is we're having trouble finding people to fill the jobs that are available currently. Would it be your position after thinking about this legislation that this would help us in that endeavor, long term, across our state? [LB586]

CLARK LAURITZEN: There's just no question in my mind, Matt. We have employers, we have 3,100 employers represented in the Omaha Chamber. Many of them, and including my company, have businesses across the state, locations across the state, and it is our number-one challenge, finding good people. In Omaha, it's particularly acute with IT talent. In many towns, like where you're from, it's manufacturing talent, talent of all kinds. So we are just very afraid of anything that would limit the talent that might be attracted to this state. Furthermore, I would say, this isn't just an issue in the LGBT community. Plenty of people outside of that community watch this issue, pay attention to it, and it motivates their mobile decisions. [LB586]

SENATOR WILLIAMS: I would also ask the same question I asked of Senator Morfeld about setting the limit at 15 employees. From the standpoint of the Omaha Chamber, does that number make sense or is that discriminatory in itself? [LB586]

CLARK LAURITZEN: You know, I can't speak to the drafting the legislation. I will tell you that the Omaha city ordinance applies to companies of five employees or more. But I can't speak to whether 5 or 15 is appropriate statutorily. [LB586]

SENATOR WILLIAMS: Thank you. [LB586]

SENATOR SEILER: Senator Krist. [LB586]

SENATOR KRIST: Well, that last question...thank you for coming, by the way. Thank you, Chair. That last question was mine, but I was going to ask the question. And I was also going to publicly acknowledge that your mentorship of my son meant everything, and your attitude in the bank and how you treat your employees has been exemplary. And on behalf of my family, I thank you for what you're doing. [LB586]

CLARK LAURITZEN: Thank you. [LB586]

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SENATOR SEILER: Questions on the left? Okay. Thank you for your testimony. [LB586]

CLARK LAURITZEN: Thank you, Mr. Chairman. [LB586]

GWENDOLEN HINES: Good afternoon. [LB586]

SENATOR SEILER: Good afternoon. [LB586]

GWENDOLEN HINES: My name is Gwendolen Hines. It's G-w-e-n-d-o-l-e-n. Last name is H-i-n-e-s. I'm here on behalf of myself and the social justice committee at the Lincoln Unitarian...the Unitarian Church of Lincoln. And I have chronic fatigue syndrome and normally at this time of day I am resting on my sofa. I'm really...I'm very tired, but I've stayed here and tried to outlast my exhaustion to tell you about my son. So my son was...is transgendered and he was born female and he began living as a male at the age of 15. He's very kind and generous. In 2011, when Japan suffered a tsunami, he donated \$200 of his money, which was almost all of his money, to the Red Cross to help the victims of the tsunami. And he put me to shame because I only donated \$100 and he probably put all of you to shame. He gives blood as often as he can. He goes to church. He was a very much sought-after babysitter in high school. In high school, he volunteered at Tabitha and Bright Lights. And he is an upstanding citizen and he deserves the rights of every U.S. citizen in this country. And that's all I have to say. Thank you. [LB586]

SENATOR SEILER: Thank you. Any further questions? Seeing none, thank you for your testimony. [LB586]

GEORGE WOLF: (Exhibit 2) My name is George Wolf. I live in the Near South neighborhood in Lincoln, and I'm speaking on behalf of Nebraskans for Peace, a peace and justice organization long committed to opposing employment discrimination on any grounds extraneous to job performance. A year ago last week, my partner of 40 years, John Taylor, died. In the early 1970s, when we met, John was the assistant manager at a grocery store here in Lincoln, on his way up. But when the store's owner discovered that John was gay, he was fired on the spot. Nebraska law as it existed then allowed the owner to do so. During the years since, John held many responsible positions, among them president of the Near South Neighborhood Association, vice chair of the Lincoln/Lancaster County Health Department's AIDS task force, executive director of what was then called the Nebraska Civil Liberties Union and, for 15 years, chair of the Lincoln Board of Zoning Appeals. Were John still alive, Nebraska law as it continues to exist right now, 40 years later, would still allow that grocery store owner to fire him for no better reason than his being gay. Thousands of Nebraskans like John, but fearful for their own employment, hide their sexual orientation. Many who don't, like the waiters of a Lincoln restaurant some years ago, find themselves fired from their jobs with no legal recourse.

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Nebraskans for Peace urges you, the members of the Judiciary Committee, and your legislative colleagues to end employment discrimination on the basis of sexual orientation and gender identity by reporting LB586 out of committee and supporting its adoption by the Legislature. Thank you. [LB586]

SENATOR SEILER: Any questions? Yes, Senator. [LB586]

SENATOR PANSING BROOKS: I just want to say thank you for coming. I knew and was friends with your partner. In the '80s we served on a board together. And of course, he was part of what taught me about some of the issues that gay couples face. And with the letters that I've received similar to this, where people are fired for no reason other than their sexual orientation, I just want to thank you for coming forward. I'm sorry for your loss that I'm sure still hurts, and thank you for being here today. [LB586]

GEORGE WOLF: Thank you. [LB586]

SENATOR SEILER: Any further questions? Just a second. Seeing none, you may step down. Thank you. Next witness. [LB586]

BRUCE BOHRER: Good afternoon, or evening, Chairman Seiler. Bruce Bohrer, appearing on behalf of the Lincoln Chamber of Commerce. For the record, my last name is spelled B-o-h-r-e-r. We are pleased to be here this afternoon in support of LB586. And I am happy to align and associate our organization with the comments of Mr. Lauritzen. We're proud to be here, united with the Omaha Chamber of Commerce, in support of this legislation. And really, as I think about this--I don't have any prepared comments--but as I think about this and some of the things that we're proud of as Nebraskans that we hold dear and the values that we have--fairness, equality, diversity, merit--and those are all the points that are made in our...under our law, under 48...I think it's 48-1101. These are policies that foster employment of all employable persons in this state regardless of their race, color, religion, and we think that it also should include sexual orientation and gender identity. People should not have to hide who they are. We have work force issues that you've heard of earlier. And we don't have people that ask for another IT person who is straight. They ask for an IT person that's talented, that can do the job. And so we are proud to be here and be supportive of this bill and supporting tolerance and diversity and inclusiveness. You're going to hear a lot more on those issues from our Young Professionals Group who's going to be testifying later and, I believe, a Young Professional group from Omaha, as well. On that, I would end my comments and be happy to answer any questions you might have. [LB586]

SENATOR SEILER: Senator. [LB586]

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SENATOR PANSING BROOKS: Mr. Bohrer, thank you so much for coming. As a 30-year member of the Lincoln Chamber, I can't tell you what pride this gives me that you have come to the...you know, today to speak on behalf of justice for all. And I just...I want to thank you very much for taking this stand and being public about it, appreciate it. [LB586]

BRUCE BOHRER: You're welcome, happy to do it, proud to do it. [LB586]

SENATOR SEILER: Any further comments? Thank you for your testimony. [LB586]

BRUCE BOHRER: Thank you. You bet. [LB586]

LINDA QUENZER: (Exhibit 3) Good afternoon again. I am still Linda Quenzer, and I am still spelling my name L-i-n-d-a Q-u-e-n-z-e-r. I am now representing the city of Lincoln. I serve as the city of Lincoln's ombudsman and LGBT liaison. I want to begin by thanking Senator Morfeld for introducing this important legislation, and also to thank the Judiciary Committee for the opportunity to address you on this matter. Kim Taylor-Riley, the city's director of equity and diversity for the city of Lincoln, had planned to be here this afternoon to testify for LB586, but she is ill. I'm ask...I've asked the page to distribute Ms. Taylor-Riley's written testimony, and I will just highlight a few points on behalf of the city in support of LB586. In my role, I worked with the Lincoln Commission on Human Rights. For those who are unaware, the LCHR has for more than 40 years enforced civil rights for the residents of the city of Lincoln. This is what Ms. Taylor-Riley said. LCHR is available to anyone who believes that they have been subjected to discrimination in employment, housing, or public accommodation based upon the following protected class statuses: race, ancestry, color, marital status, religion, sex, disability, national origin, or retaliation. Over the last few years, the LCHR estimates that it has fielded approximately six inquiries per year concerning sexual orientation-related claims, usually in the realm of employment discrimination. Our outreach coordinator reports that she has been contacted both by phone and during outreach presentations regarding this issue. Specifically, these inquiries concern whether or not sexual orientation or gender identity are protected classes. Unfortunately, the outreach coordinator was required to advise them there is no recourse at law for them to enforce their right to live and work free of discrimination in Nebraska unless they fell under the umbrella of another codified protected class or their circumstances met specific federal criteria. As we understand it, jurisdictions that have enacted similar laws to the one before you have not noted a similar increase in the number of cases handled as a result of the law change. Given this experience, we have no reason to believe that human relations offices in our state would experience a vast increase in complaint filings as a result of the proposed statutory change. Including sexual orientation and gender identity as protected classes in employment is an important first step toward enforcing the civil rights of these individuals. Ultimately, the LCHR and offices like it across the state exist to enforce the civil rights of all residents. [LB586]

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SENATOR SEILER: Thank you, ma'am. Your light is on. [LB586]

LINDA QUENZER: I encourage you to send this bill to the floor for consideration. Thank you for your time. [LB586]

SENATOR SEILER: Thank you. Questions? Seeing none, thank you for your testimony. [LB586]

LINDA QUENZER: Certainly. [LB586]

SARAH TUCKER: Good afternoon, Chairman, members of the committee. My name is Sarah Tucker, S-a-r-a-h T-u-c-k-e-r. I'm here today on behalf of the Greater Omaha Chamber, as well as the Greater Omaha Young Professionals, certainly want to thank you for the opportunity to be here today. I've been asked by the Greater Omaha Chamber to represent their interest today due in part because I'm currently on the council of the Greater Omaha Young Professionals. We were created to advise the organization and assist in its mission to make the region a place that effectively attracts, retains, and develops emerging talent. The Greater Omaha Young Professionals reaches 7,000 young professionals in our region currently. In 2014, we hosted seven events to explore issues of inclusivity and diversity that impact our communities. Each one of those were completely sold out. Additionally, I traveled to Kearney, Nebraska, in November for the Connecting Young Nebraskans conference which brings together YPs all across this state. The issues of the inclusivity of our state for our fellow LGBT professionals was addressed multiple times at this event, as well. I speak on behalf of the young professionals in our state. We expect to work in communities that are inclusive and supportive. Outside of the Young Professionals, I am in sales and the information technology field. The number-one challenge facing current businesses is finding and keeping workers. In addition, the number-one challenge of businesses looking to move to Nebraska is that they won't be able to find the workers that they need. In order for the state of Nebraska to continue to prosper, we must support the equal rights of all of our citizens in the workplace. One element of the modern economy is the necessity of businesses to represent diverse backgrounds and provide an inclusive environment for all employees. There are 2,356 self-identified same-sex couples living in the state of Nebraska, all of which are current and potential workers for our businesses. Additionally, we have the opportunity to better compete with states who continue to recruit top talent. The State Equality Index produced by the Human Rights Campaign examines the laws, policies, and services of states and categorizes them based on the inclusivity of LGBT people who live and work there. Of our competing states, Nebraska is the last and least inclusive category. While competing states rank much higher, Iowa ranks in the second category as a state that has robust laws to solidify equality and prevent discrimination. Supporting legislation that encourages talent to live productively in our state by maintaining employment and a strong quality of life is essential to

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accomplishing state economic goals. We send a message across the world that Nebraska is open for business. By making this change, we open the doors to potential talent that is attracted to our state...the red light. [LB586]

SENATOR SEILER: Any questions? [LB586]

SENATOR PANSING BROOKS: Did you have anything else? I'm sorry. [LB586]

SENATOR SEILER: No, go ahead. [LB586]

SENATOR PANSING BROOKS: Could I...did you have something to finish that you were trying to say? [LB586]

SARAH TUCKER: I zipped through a little bit, yeah. [LB586]

SENATOR PANSING BROOKS: Why don't you just finish up what you were (inaudible)... [LB586]

SARAH TUCKER: Did...my last sentence was just, by making this change, we open the doors to potential talent that is attracted to our state for the good jobs and strong quality of life. [LB586]

SENATOR PANSING BROOKS: Thank you, Ms. Tucker, for coming to be with us. [LB586]

SARAH TUCKER: Thank you. [LB586]

SENATOR SEILER: Thank you. [LB586]

SARAH TUCKER: Thanks. [LB586]

TOM BECKIUS: Good evening. Chairman, Senators, my name is Tom Beckius, last name B-e-c-k-i-u-s. I am currently the chair of Lincoln's Young Professionals Group and am speaking on behalf of that organization today. Just for your reference, Lincoln's Young Professionals Group is a group of 900 young business leaders working and living primarily in Lincoln and Lancaster County, Nebraska. I will be brief with my comments. I would like to echo the comments made by my fellow business peers already here today with testimony that they have just given. What I'd like to further convey to all of you here is that Lincoln's Young Professionals Group has decided to unanimously support LB586, our executive council has, because we believe it works

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to create a more inclusive and diverse work force. We believe a welcoming environment in the state of Nebraska is so key to attracting and retaining young people and talent. We believe this is an important component of talent acquisition and retention not just today but certainly in the future, as well. We believe business thrives when we have the best talent at our disposal in Nebraska, and we think this bill serves to protect that talent here in our state. We do believe this is commonsense legislation, and Lincoln's Young Professionals Group believes LB586 is an important step in making sure Nebraska remains an attractive and competitive place for business. With that, if there are any questions... [LB586]

SENATOR SEILER: Senator. [LB586]

SENATOR PANSING BROOKS: Thank you so much, Mr. Beckius, for coming forward. Again, it's so refreshing to see younger people come forward and basically say, what in the heck is the big deal? And we need to employ everybody, and so I'm so grateful. As you may know, I have a son who is a third-year law student, and I want every single opportunity provided for him, as a gay man, as anybody else. And to all of a sudden decide that, because of whom he may choose to love at some point, he shouldn't be offered the same opportunities in employment is so beyond any kind of rational thinking that I can have in my mind, especially with my love of the equal protection clause that was drafted so long ago. I just thank you very much for your efforts and your work to support so many young people in our state. [LB586]

TOM BECKIUS: Thank you, Senator. I appreciate that. We agree with you and we believe that this discussion is solely about talent, and that's what we strive to achieve here in Nebraska, to acquire talent and retain the best talent in our state. And that's why we're here today, because we feel like this particular piece of legislation will help to protect and preserve talent here in our state. [LB586]

SENATOR PANSING BROOKS: Thank you. [LB586]

SENATOR SEILER: Thank you very much. [LB586]

TOM BECKIUS: Thank you. [LB586]

SENATOR SEILER: Next proponent. [LB586]

LUCAS PETERSON: (Exhibit 4) Distinguished members of the Judiciary Committee, my name is Lucas Peterson, L-u-c-a-s P-e-t-e-r-s-o-n, but I go by Luke. I live in Lincoln in the 46th Legislative District; however, I was born and raised on a farm in south-central Nebraska near a

small town on the county border of Phelps and Gosper, called Bertrand. I'm 30 years old. I'm the youngest child of four, an uncle, a son, and a brother, and I also happen to be gay. Trust me when I say that I did not make a choice about being such; however, I made the decision to be honest about myself. I have no regrets about being honest; however, such honesty has cost me many things, mainly economic security, in a state where it prohibits me from being honest. That is why I am asking you to support LB586. I've been fired three times in my life for being who I am, and I remember every time like it was yesterday. The first time I was going to college, actually it was in Senator Ebke's district, and I was dealing with a lot of issues back then. But finally, when I decided to come out as gay, I was working a job in fast food and the owner of the establishment heard. And he called me into his office, and I'm never going to forget the two phrases he said to me. He said, I don't condone your unmoral behavior and I find you to be a questionable character. After that, he said I was not welcome to even step foot back into his establishment. Ironically, I had two semicloseted gay coworkers at that place who quit their jobs within the week after I was fired for fear that they would lose their job. The second time I was fired, I had moved to Lincoln and I just obtained my undergraduate degree. I found a job as a wine tender at a small consignment shop in the Haymarket because, as I stated, I come from the farm. My parents actually have a small vineyard. Apparently, that distinguishes me from knowing grapes. One evening, I was not scheduled to work and I brought a date into the store, but the owner quickly discovered that this visit was more than a social outing. The next day, I was taken off the schedule with no explanation, no acknowledgment, not even a response to my inquiries as to why I was let go. The third time I was fired, it was the hardest for me. I was working at an alcohol and substance abuse rehab center here in town as a peer support mentor because, again, apparently, being a recovering narcotics addict for ten years made me fit and eligible to work there. I loved working there. It was my favorite job that I've ever had in my life, and I've always...take any shift and I gladly worked any shift. But I had to ask time off because a friend of mine tragically died and my time off was not requested and I just went. I just went to the funeral and I made a big deal out of it because no one was willing to help me out. So after, a week later, I was told that I should either quit or be fired. And I said, no way, I'm not going to do that, so I just left. Anyway, I have a parting statement. I often wonder how my life would be easier if I didn't have to research equal opportunity employment policies from employers to see if they have sexual orientation on their policy. I do research those things. And that's the reason why I have two jobs now, because I refuse to submit an application if they are not on it. Thank you. [LB586]

SENATOR SEILER: Any questions? [LB586]

SENATOR PANSING BROOKS: Did you...I do. [LB586]

SENATOR SEILER: Go ahead. [LB586]

SENATOR PANSING BROOKS: Did you have something else you wanted to add? [LB586]

LUCAS PETERSON: Sorry, I was...I know I was trying to rush through it, but, no, I've gone through the main points, actually. [LB586]

SENATOR PANSING BROOKS: Okay, thank you. [LB586]

SENATOR SEILER: Any questions? Thank you for your testimony. Next. [LB586]

JAY HARGAN: (Exhibit 5) Good afternoon, Senators, and thank you for this opportunity. My name is Jay Hargan, J-a-y H-a-r-g-a-n, and I'm speaking to you today as a former ward of the state. I'm here to offer my support for LB586 and I am here to provide a perspective on the young people who aged out of the system and are seeking employment or college as a member of the LGBTQ community, thus, would directly impact the bill. Four years ago, I aged out of the foster care system, as entering at age 15. Learning to support myself presented many challenges, including losing all my family support and struggling financially. I'd like to share three things why I support LB586. The bill would invest in young people, supports their dreams of going to whatever school/college they want, not being afraid to go out for a job that they think will not hire them because of them being LGBTQ, or helping youth live in a safe environment. Before I start, I have a point. Between 15 percent and 48 percent of gay, lesbian, bisexual, or transgender workers have experienced being fired, denied promotions, or harassed, according to the Williams Institute, a think tank at UCLA of law that studies LGBT issues. I support this bill because people who are aged out of the foster care system need...system have the opportunity to attend any school they wish without fearing discrimination. Passing this bill will ensure that we'll be able to receive the benefits they are eligible to, regardless of their gender identity or sexual orientation. When I was just coming out as transgender, I had a job that didn't like the fact I was transgendered, so they did everything they could to get me to quit. But I didn't let them. I didn't let them get to me, so they fired me instead. I think LB586 will prevent future youth from reliving my situations. This bill, if passed, would also offer young people employment free of discriminatory actions, along with the financial stability of their...of themselves in their life. When I was coming out and everything, my...it was hard for me because most people just looked at me and laughed because I was transgender. They didn't care that I was a person. They just laughed at me and it hurt. And I think this bill would benefit from being...by being passed because everyone is created equal. We're all human beings. We shouldn't be discriminated because we're an LGBTQ or anything. I think the bill should be passed. That's what I have to say. [LB586]

SENATOR SEILER: Further questions? Thank you for your... [LB586]

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SENATOR PANSING BROOKS: I have something. [LB586]

SENATOR SEILER: Okay. [LB586]

SENATOR PANSING BROOKS: I just wanted to thank you for your testimony. It's very brave, and I'm sure I can't even imagine how difficult. But I just want to think back a little bit to some of the laws that we've had to pass for African-Americans for equality and to be able to...and to promote rights of all people. And I would just say that, you know, we still have problems with that today, with race. And so I would say that we can change laws, but we cannot change hearts. But at least the laws require that people cannot actively discriminate against others, and that's what we need to eradicate from our society. [LB586]

JAY HARGAN: I agree. [LB586]

SENATOR PANSING BROOKS: Thank you. [LB586]

SENATOR SEILER: Any further questions or statements? Thank you. [LB586]

JAY HARGAN: Thanks. [LB586]

SENATOR SEILER: Next witness. Boy, that was quick. Oh. (Laughter) [LB586]

AMY WEST: (Exhibit 6) Sorry about that--too many papers. [LB586]

SENATOR SEILER: Welcome. [LB586]

AMY WEST: Again, my name is Amy West, A-m-y W-e-s-t. And for the last time tonight, I'm here on behalf of the Nebraska chapter of the National Association of Social Workers in support of LB586. I'll be very brief. Senator Morfeld did a great job with his introduction, and everybody else kind of covered the main points that I discuss in my written testimony, so you have that as a reference. But we just would like to go on the official record in saying that LB586 would be good for the people of Nebraska, the families of Nebraska, and for the future economic health of Nebraska, so we hope that you choose to advance this bill. [LB586]

SENATOR SEILER: Amy, are you an attorney? [LB586]

AMY WEST: No, I'm a social worker, definitely not an attorney. (Laugh) [LB586]

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SENATOR SEILER: Okay. I'm looking for an attorney in this area. [LB586]

AMY WEST: Oh, well, one will be up eventually. (Laughter) [LB586]

SENATOR COASH: I know one. [LB586]

SENATOR SEILER: No, I can't ask him, no. Any questions? [LB586]

SENATOR PANSING BROOKS: No, thank you. [LB586]

AMY WEST: Okay, thanks. [LB586]

SENATOR SEILER: Thank you very much, Amy. Any further proponents? Seeing none, opponents. [LB586]

GREG SCHLEPPENBACH: Hello again, Senator Seiler and members of Judiciary. It's kind of hard being the naysayer on three bills in a row here. My name is Greg Schleppenbach, S-c-h-l-e-p-p-e-n-b-a-c-h. I'm executive director of the Nebraska Catholic Conference. Catholic social...Catholic teaching holds that all human beings possess an innate human dignity that must be acknowledged and respected by others in society. No one should be an object of ridicule, scorn, hatred, or violence for any reason, including sexual orientation. Catholic teaching also makes an important distinction between sexual inclination or attraction and sexual conduct. While the church is opposed strongly to all unjust discrimination on the grounds of actual or perceived sexual inclination, LB586 would go...would allow for no distinction to be made between sexual inclination and sexual conduct. The legislation uses the vague, undefined term "orientation" which must be presumed to include conduct, as well as inclination or attraction. Any employer who would not accept or even affirm or condone an employee's conduct-based sexual lifestyle or not accept or accommodate an employee's desire to engage in public expression of or advocacy for sexual conduct the employer deems immoral would risk being sanctioned under this law, no matter what the circumstances. In contrast to sexual conduct within marriage between one man and one woman, which serves both the good of each married person and the good of society, sexual conduct outside of marriage has no claim to special protection by the state. We also believe that the inclusion of gender identity in this bill is highly problematic because the definition is extremely vague and it is so poorly constructed, even as a technical matter. Catholic teaching is not morally neutral on the matter of homosexual or bisexual conduct or of heterosexual conduct outside of marriage. If enacted, LB586 would take the civil law beyond neutrality on such conduct and legally affirm and protect it within the context of employment practices. What's more, pursuant to LB586, the law could impose the condemnation

and penalties on the state...of the state on Catholic entities and private-sector employers and employees who act in fidelity to the church's teaching and refuse to accept or accommodate sexual conduct and lifestyle or expressions related to such conduct and lifestyles. We believe that LB586 would have...could have serious and substantial legal ramifications for the Catholic church's programs and ministries and for its members who seek to conduct their activities in fidelity of the church's moral teachings. Thus, the sobering public policy questions are whether the Legislature will legally affirm and specially protect sexual conduct outside of marriage and will it force Nebraskans with sincerely held religious beliefs to act in contravention of those beliefs or suffer government penalties for not doing so. It is the position of the Nebraska Catholic Conference that such a public policy would seriously undermine the public good and, therefore, urge that LB586 be indefinitely postponed. Thank you. [LB586]

SENATOR SEILER: Thank you. Any questions? Yes, Senator. [LB586]

SENATOR PANSING BROOKS: I would just like to respectfully disagree about sexual inclination or sexual attraction. I don't think that any of the medical professionals agree with that statement anymore and I think it's part of what hurts so many people. And rather than coming out and trying to figure out why certain people should not be given the equal rights and the equal protection and the equal opportunities to jobs and every other thing that you and I enjoy as white, heterosexual people, please, figure out how to embrace people and how to love people and how to bring them into the fold and make this society healthier and happier and stronger and based around the love that we all believe that religion is founded upon. And that's what I would say. Thank you. If you have a comment, you may say something, but... [LB586]

GREG SCHLEPPENBACH: Yeah, I do, Senator. I have gay friends. And I've gone to bat for one of those gay friends who was being treated inappropriately in a work environment. I believe that's wrong and abhorrent and shouldn't be allowed. I believe that firing somebody simply because they are gay is wrong and should not be allowed. That's unjust discrimination and it shouldn't be allowed. I'm against that. The church is strongly against that. If I didn't make that clear in my testimony, let me state it clearly. [LB586]

SENATOR PANSING BROOKS: It was not clear. [LB586]

GREG SCHLEPPENBACH: I'm sorry that it wasn't, so I'm glad you've given the opportunity to clarify that. We make a distinction, however, between unjust and just discrimination. And what we've seen with a lot of these special protection legislation is that it's not used as a defense against unjust discrimination that we would believe is...shouldn't be allowed and as a sword to go after people of faith who disagree and speak publicly about it who have been punished in employment situations because they speak out and disagree with that lifestyle. So while we

strongly oppose unjust discrimination, and I think it's evident that the direction of the business community and beyond is such it would make a pretty touch argument to say that the direction is in disadvantage towards those who are gay. And to have special protections set up that could be used contrary to that and in a way that harms people from being free to express and believe what they believe and being punished for believing that is where the line is crossed in this legislation. [LB586]

SENATOR PANSING BROOKS: And could you please explain to me what just discrimination is? [LB586]

GREG SCHLEPPENBACH: Just discrimination would be if a person is asked to affirm a lifestyle or conduct and doesn't want to do that. An employer shouldn't be forced affirm...of course, they shouldn't engage in unjust discrimination simply because of who a person loves. But when that employer is asked to affirm that and/or an employee is fired or disciplined because they speak out on their own personal time, which has happened in many occasions, that's the line between just and unjust discrimination. [LB586]

SENATOR PANSING BROOKS: Well, thank you. I appreciate so much of what your church does and the work that you're...that the Pope is doing. But I just believe that if we're going to argue religion, that we have to fall on the side of loving and being kind and supporting all of our brothers and sisters and not just worrying about what those of us in power might or might not want to do. [LB586]

GREG SCHLEPPENBACH: Senator, I agree, I really do. I think there needs to be a balance here though, and that's my concern. You know, the balance between opposing and not allowing unjust discrimination against people just because they're gay and it being turned around against employers or employees or anybody else who doesn't want to be forced to affirm that and being punished as a result, that's the balance. And I, you know, I don't think we're as far apart on this as you may think we are. [LB586]

SENATOR PANSING BROOKS: I bet we aren't. And the only thing that I would add is that, of course, some of those same arguments were made towards...in the '60s when we had to accept African-Americans or...and change all of our civil rights on that, so...and some people didn't want to be forced into having an African-American in their employ if they didn't want to and didn't want to be forced to have to sit in the same restaurant with an African-American. We have some of the exact, same arguments going on, and these aren't arguments of love or kindness or justice. These are arguments of power and keeping the ability to remain in power and put others beneath us. [LB586]

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GREG SCHLEPPENBACH: That's exactly why we agree that there is certain unjust discrimination that should not be allowed. [LB586]

SENATOR PANSING BROOKS: Okay, thank you. [LB586]

SENATOR SEILER: Thank you very much. [LB586]

GREG SCHLEPPENBACH: You're welcome. [LB586]

SENATOR SEILER: You may go ahead, Gregg. [LB586]

GREGG NEUHAUS: (Exhibit 7) Chairman Seiler, members of the committee, my name is Gregg Neuhaus--I will spell it this time, I forgot last time--G-r-e-g-g N-e-u-h-a-u-s. I am an attorney of 35 years. I practice in Grand Island. I wonder, in listening to the senator question or applaud some of the testifiers, she always mentioned that...your youth and this person's young. What about age? There's nothing about age in here. Is it because it was written by a young attorney instead of an old, 61-year-old attorney? That's just aside. I'm sorry. [LB586]

SENATOR PANSING BROOKS: Age is already protected, sir. [LB586]

GREGG NEUHAUS: Not in this law. [LB586]

SENATOR PANSING BROOKS: Well,... [LB586]

GREGG NEUHAUS: I would mention also that I've been...I was a 14-year member of the ethics committee, and I drafted many, many of our ethical rules and helped with disciplinary rules, so I was a little taken aback when I was asked if I understand them. I knew them before some were out of diapers. It seems to me that LB586 is seeking to provide a solution to a problem that doesn't exist, for example, the amending of Section 18-1724 to add sexual orientation and gender identity to the list of protected classes which cities may choose to protect. Does the Legislature have to get involved? Omaha just said they already have that. In Grand Island we debated that and had an ordinance proposed last year. We don't need the Legislature to get involved any more than we need Washington to get involved with some of the state activities. Why do we need that? Secondly, do you realize that the last sentence of Section 18-1724 states that it's okay to discriminate against two married people if they are husband and wife by refusing to employ them both? But you can't discriminate against two gay persons that live together and consider themselves to be spouses. So in effect, you're creating a class with special rights, not equal rights. My wife and I couldn't be employed by the same law firm under this law. They could

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refuse, but not if we were two gay people. Finally, and most importantly, businesses make choices between candidates every time they hire. They want the best person for the job, and that's the person that's going to make them the most money. That's business. Employers are going to avoid hiring persons from these new protected classes because it's easier and cheaper to defend a lawsuit claiming discrimination in hiring than it is to defend a lawsuit claiming discrimination in firing. The result is fewer jobs for the people that this bill seeks to protect. Over the years, I've advised many, many real estate clients that you never, ever buy a lawsuit and you never, ever hire a lawsuit. This bill will prevent people being hired in the classes you're seeking to protect. Thank you. [LB586]

SENATOR SEILER: I have a question. Since you're an attorney, have you researched the federal law on this use of the word "sex" in our constitution? [LB586]

GREGG NEUHAUS: I have not, Senator,... [LB586]

SENATOR SEILER: Okay. What I found... [LB586]

GREGG NEUHAUS: ...because I...it's not my area of law. [LB586]

SENATOR SEILER: And the reason I'm going to bounce if off you is--that's fine--so if there's another lawyer coming up here, they can help me along. Every single case on discrimination using just the term "sex" has been won in federal court. Why hasn't somebody tried the case in Nebraska? [LB586]

GREGG NEUHAUS: And if that's the case, Senator, why do we need this law? [LB586]

SENATOR SEILER: That's a question I have, and that... [LB586]

GREGG NEUHAUS: Yeah. [LB586]

SENATOR SEILER: I was hoping you'd say, oh, but the Supreme Court ruled,... [LB586]

GREGG NEUHAUS: No, I'm sorry, I did not research that. [LB586]

SENATOR SEILER: ...and that would clarify what I was concerned about. Thank you. [LB586]

GREGG NEUHAUS: Right. No, I did not research that. Thank you. [LB586]

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RICHARD CLEMENTS: (Exhibit 8) My name is Richard Clements, C-l-e-m-e-n-t-s. Senator Seiler and members of the Judiciary Committee, I'm an attorney and president and owner of American Exchange Bank in Elmwood, Nebraska, and potentially an employer who would be subject to the provisions of this bill. But before commenting, I want to state that I do seek to preserve the worth and dignity of everyone and I encourage others to show courtesy and respect to all people. I do ask that the committee vote against advancing LB586 for the following reasons. First, I'd want to address the federal constitutional issues. The United States Constitution, Article I, states that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, very well known, Article I, which also applies to states under the Supreme Court's rulings. Constitution of the state of Nebraska also has similar provision, and I quote, no person shall be compelled to support any place of worship, nor shall any interference with the rights of conscience be permitted, end quote. I believe the provisions in LB586 would violate both the federal and Nebraska constitutions by attempting to interfere with the rights of conscience of business owners such as myself. Secondly, regarding federal law, there's a recent case of Hobby Lobby stores in 2014 and I quote from the United States Supreme Court: We doubt that the Congress that enacted the Religious Freedom Restoration Act would have believed it a tolerable result to put family-run businesses to the choice of violating their sincerely held religious beliefs. From those...from that case and others, I believe it is clear that federal law also would provide protections for the religious beliefs of the owners of businesses that might be adversely affected by legislation, including this one. With that in mind, I guess I would suggest that an Attorney General's Opinion would be useful to guide the committee regarding those issues. My third point would be just regarding that a pluralistic society...in our society, where there are deep differences over beliefs, all such beliefs should be tolerated by the state, permitting differences to coexist. I would suggest that contested moral questions like this are best resolved through dialogue over a period of time, rather than using criminal penalties against myself to coerce and bully one group to violate its sincerely held beliefs. Thank you. [LB586]

SENATOR SEILER: Thank you. Any questions? Yes, Senator. [LB586]

SENATOR PANSING BROOKS: Well, I'm just interested that you didn't mention the Fourteenth Amendment, which basically says all persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the state wherein they reside. I think that the...I believe that the Supreme Court will find more purchase about a person's rights who is born here than the fact that they found that a business can or cannot cover birth control. And I can't even believe we're talking...that we're in the same world. We're talking about human rights to exist, to have life, liberty, and the pursuit of happiness, which includes the ability to get a job, to be able to be employed, to be able to live your life, and similar to the equal rights arguments that were made in the '60s for African-Americans. So I just don't believe that the Supreme Court is going to pull out the Hobby Lobby argument and say, oh, well, you know,

you have a right to discriminate against these people just because you also have the right to not have birth control. Anyway, I just think that...I think your business will be stronger and better with the passage of this law. And I think every bank and every business in the United States will be so and I just...I hope that you can see the value at some point of embracing all people to be working within your business. [LB586]

RICHARD CLEMENTS: Thank you, ma'am. I guess my response would be that there is simply a conflict with this bill, if passed, really presents a hammer to silence my beliefs or my religious values. And I guess that fear of silencing my speech and I guess the...in society where we have different opinions and different religious values, I would prefer a voluntary approach. I've heard that a number of businesses have policies that do prohibit this type of discrimination. I applaud them and I'm in favor of them and I'm glad that those exist. I guess I would prefer a voluntary, rather than a criminal, you know, third-degree misdemeanor charge being used to solve the problem. [LB586]

SENATOR PANSING BROOKS: Thank you very much for your testimony. [LB586]

SENATOR SEILER: Thank you. Next witness, opposition. [LB586]

EDWARD STRINGHAM: (Exhibit 9) Thank you, Senator, for the opportunity to testify this afternoon. My name is Edward Stringham, S-t-r-i-n-g-h-a-m. I'm a psychologist and for 24 years have devoted a considerable portion of my professional practice to helping people address challenges relative to sexual orientation. I have listened to...I wrote here hundreds, but it's actually thousands of hours of personal narrative. I'm concerned for the well-being of those in the gay and lesbian community. Nevertheless, I oppose LB586 because I do not believe that its enactment would be helpful. First, evidence is lacking that there is a significant problem with discrimination in Nebraska. Claims of discrimination against gays and lesbians are typically based on perception, a subjective concept that psychologists have spent decades demonstrating is highly variable from person to person. It's not sound to base public policy decisions upon the subjective impressions of a few. Second, without state regulation or pressure, there are a growing number of Nebraska businesses that have independently established their own nondiscrimination policies, including some that are known as among the corporations with the nation's strongest policies. The senators listed a number of them this afternoon. We have strong reason to believe that attitudes in our state are following national trends, which every survey taken between 1973 and 2012 documents as being progressively more accepting of homosexuals over time. Third, the available surveys, such as one of the witnesses quoted earlier, that reportedly prove that we have a discrimination problem in Nebraska are deficient in scientific rigor. Some are unpublished and, therefore, cannot be evaluated for quality or freedom from bias. All drew their samples from participants in gay political and social advocacy organizations. Known as convenience samples,

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these are not representative of the population being studied and are, therefore, neither generalizable nor valid grounds for altering public policy. In addition, because these surveys typically do not define discrimination, they cannot provide a basis for concluding that there is any particular problem with discrimination. Fourth, income disparities that are generally associated with employment discrimination are not seen in the gay community. For example, even before the advent of most state employment discrimination laws, The Wall Street Journal reported in the 1990s that gays and lesbians on average earn roughly 40 percent more than the national average. Similarly, income disparities have not been documented in Nebraska. In conclusion, we do not have data that supports the contention that there exists a discrimination problem whose scope warrants regulatory action. Rather, the best information suggests that discrimination is likely in decline. It is in our best interest to avoid additional regulatory cost and state intrusion and, instead, work to maintain a business climate where each firm can respond independently to the challenges of doing business in the state. Thank you. [LB586]

SENATOR SEILER: Questions? Thank you for your testimony. [LB586]

EDWARD STRINGHAM: Thank you, Senator. [LB586]

MARIANO MENENDEZ: (Exhibit 10) Well, good evening, Chairman and members of the committee. My name is Mariano Menendez, M-a-r-i-a-n-o M-e-n-e-n-d-e-z. I'm the pastor of Word of Life Community Church in Columbus, Nebraska, and I am very honored to be able to share my concerns in opposition of LB586. It is my firm belief that everyone should be treated with dignity and respect, as I believe that every person has been created equal. That should be just common sense. As a member of the minority and as an adopted citizen of this great nation, I can testify that what has made this nation great is the freedom for which it stands. This is precisely why I oppose LB586. Nebraska lawmakers should not pick and choose who gets freedom and who doesn't. Today, all Nebraskans are able to obtain things they require in Nebraska's robust and thriving marketplace. LB586 is really unnecessary since we already have a free and thriving marketplace. I have lived in Nebraska for almost 18 years and love its diversity of landscape, weather, including the snow, and people. I have enjoyed the opportunity to raise my family and work as a pastor across Nebraska. I know that there is much freedom in the state of Nebraska for anybody to prosper and live in peace, and a bill like LB586 will only hinder the freedom that we all now experience. As a pastor, I do not believe that the government should tell me or any of the religious leaders who we should or should not hire. If lawmakers play favorites when it comes to freedom, then there will be no freedom and we will lose the foundation from which this great nation was founded. What is at stake with LB586 is the right for churches to run their organizations according to their doctrine and values. The churches of Nebraska offer many different options for everyone to find what fits their needs. No one needs to be coerced or to give up their freedoms. I support the freedom of all individuals and entities, religious and otherwise, to hire those who advance and care about the mission of their organization, not those that the

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government may force for us to hire. So thank you very much for the opportunity to speak to you today. [LB586]

SENATOR SEILER: My pleasure. Questions? [LB586]

SENATOR PANSING BROOKS: Thank you so much for coming, Pastor. I appreciate it and I'm glad you've been here 18 years. And I just wanted to add that 50 years ago, we would have been fighting for you because of the race issue. And it's very important that...you're right, we have to have the freedom to hire whomever we want and to be able to apply for whatever job we want. And this isn't forcing anybody to hire somebody. What this is doing is saying, now, because of sex...and that affects me, as well. That's something that's been fought many years before, and race has been fought many years before and religion has been fought many years before. And now we're saying people are being discriminated against because of their sexual orientation and that should not be happening. You need to hire somebody according to who they are, what they can provide to your business, and not because of whom they love. [LB586]

MARIANO MENENDEZ: Absolutely, and I agree with that, that we will hire...we should be able to hire somebody who can, you know, agree with your mission, with your vision, and add value to your company, your business, you know, your... [LB586]

SENATOR PANSING BROOKS: I agree with you. [LB586]

MARIANO MENENDEZ: And so my fear, again, is I don't want to have to be forced into, because of a lawsuit or because I'm not complying to a law, to hire somebody who will not agree with my beliefs. Did that make sense? [LB586]

SENATOR PANSING BROOKS: I can see that. But can you see also that no one has been hired to...or fired...there's been no lawsuit to require somebody to hire an African-American person and no lawsuit to require somebody to hire a female. These laws are in place to protect the rights of every individual to the right to life, liberty, and the pursuit of happiness. [LB586]

MARIANO MENENDEZ: Well, I know of people that have opposed an agenda and because of it they were fired. And I know people that have gone to jail because they have stand on what they believe, and that is what, again, you know...we have an amazing state, and I've witnessed the freedom that people can have. We just...I don't think we need this law because we don't need it. [LB586]

SENATOR PANSING BROOKS: Thank you so much for coming today. [LB586]

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MARIANO MENENDEZ: Thank you, Senator. [LB586]

SENATOR SEILER: Thank you. [LB586]

MARIANO MENENDEZ: Thank you, sir. [LB586]

SENATOR SEILER: Next witness. [LB586]

WILLIAM FEMI AWODELE: Good evening again, Senators. My name again is Femi Awodele, F-e-m-i A-w-o-d-e-l-e. I just wanted to testify against LB586 because I believe the bill will be creating a special right, not equal right but a special right. I was privileged, I will say, to be part of those who opposed the bill in...now the ordinance in Omaha and, at that time, the churches in Omaha paid about \$10,000--I took the check to Omaha World-Herald--to say that we will stand with any LGBT community if there is discrimination. So this bill is not about discrimination. We took a full-page ad. It's about creating a special right. Number two reason why it's a special right is because, scientifically, there is no evidence that gender or sexual orientation is immutable. There is...the gene has been fully mapped. There is no gene that points to that. There has been studies at UCLA about mutation. There is nothing on that. And in fact, while I was preparing for this thing, this hearing, I went to grab my wife's diagnostic book, what is called DSM, to look through the 30 sexual...what is called SOGI, S-O-G-I, of the Psychiatric Association. And I discovered something that was amazing to me last night, that in the new DSM-5 that came out last year, the American Psychiatric Association has actually taken out sexual orientation, all 30 sexual orientation, from the DSM and what they put in they call the gender dysphoria. And I'm not sure if some of you...I did not hear it in the news, so that was interesting to me to know that even a subjective science, like Psychiatric Association, they are taking sexual orientation out. So there is nothing scientific about it. And I've heard Senator Brooks talk about civil rights. This is not a civil right, I must say, because there is no scientific evidence for it. And from my reading...like the pastor that just testified, I'm an immigrant. And from my reading of Civil Rights Act of 1968, I do not see...there's no evidence that sexual orientation or gender identity is immutable, nor are people in the LGBT community being oppressed. In fact, what has happened is that people who have freedom of conscience, churches in Omaha...I can tell you that I know a nonprofit organization who have lost funding. Some of them have had to make tough decision that is against their conscience because they are now being forced by the business community or by the philanthropic community to sign a document that they cannot sign. So many of them have lost. So this law has created a special class and it is...it's having the wrong effect on the people who are against it. Yes, sir. [LB586]

SENATOR SEILER: Thank you very much for your testimony. [LB586]

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WILLIAM FEMI AWODELE: Thank you. [LB586]

SENATOR SEILER: Any questions? Thank you. [LB586]

WILLIAM FEMI AWODELE: Thank you. [LB586]

SENATOR SEILER: Another witness. [LB586]

RAYMOND ABSHER: Good afternoon, almost evening at this point. My name is Ray Absher, A-b-s-h-e-r. I'm the president of TOBA, Inc., holding company, headquartered in Grand Island, Nebraska. We operate eight small- to medium-sized companies, six of them in the state of Nebraska, one in Iowa, and one in South Dakota where, by the way, it's much easier to do business than it is in Nebraska, just for your reference in your future thoughts. Unlike most of the people here today, I have spent my life hiring a lot of people. We employ approximately 400 people in our companies and so hiring is a big part of my life and has been for a long time. I'd like to give you a little perspective about that, hopefully, in just the couple minutes that I have. If you were to ask me how many people who work for us are over 40 years old, give me about two hours, I'd tell you exactly how many, what percent of our force that is. I could give you all their names, addresses, anything else you'd like to know. If you had asked me how many of our employees are women, give me the same two hours, I'll give you all the information you'd ever want to know about them. Ask me how many are ethnic minorities, same thing, I'll come up with names, numbers, addresses, what percentage of our staff it is, anything else you'd like to know about them. How many are handicapped, I can give you that information, as well. The reason I can give you those...that information is because those protected classes all are objective in their own way, and one can tell and see and understand and know, when you make those kind of hires, you know who you're hiring at least from that standpoint. If we are like the national average, I understand we have approximately 9, 10, 12 gay people working for us in our organization out of the 400. If you were to ask me to identify for you those people, I could not. I have absolutely no idea, and I wouldn't know how to find out. I wouldn't even know what our organization would ask. We don't ask and we don't care. We just want good employees to work for us and be effective and efficient. This kind of legislation, however, might make me care, because I could then be subject to lawsuits and other kinds of harassment, and I would find it much more difficult to discipline those people. And I would have to know. I would have to make that more of the kind of things I look for. I would choose not to do that. And so for that reason and for others that have been suggested today, I think this is poor legislation. You can't fix all the problems in the world by passing legislation. It's been mentioned here that we've done many things to support the blacks and other minorities. Just let me tell you, from employment status, how is that working. That group of people is every bit as poor and disadvantaged now as they were in 1965. You can't

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make people, from an employment standpoint, successful by passing bad legislation. I encourage you to kill this here in the committee and let it die. Thank you. [LB586]

SENATOR SEILER: Questions? Seeing none, thank you for your testimony. How many more witnesses are there to testify? Oh, we'll probably make it before 11:30. (Laughter) Go ahead. [LB586]

JOE NEUHAUS: Good evening, Chairman Seiler and members of the Judiciary Committee. Thank you again for the opportunity to testify. My name is Joe Neuhaus, J-o-e N-e-u-h-a-u-s, and I am here to appear on behalf of Nebraska Family Alliance here in Lincoln and to signify our opposition to LB586. Every person should be treated with dignity and respect. I will be brief in my testimony on this bill as many of my arguments have been previously discussed. However, I wanted to voice my concerns for the record. The question was asked by Senator Pansing Brooks about what just discrimination is. I do not intend to be glib, but discrimination is merely another term for choice. We make hundreds, if not thousands, of decisions every day, from which route to take to work to what to eat for dinner. Just discrimination is anything that does not come about from unjust motivations. The proponents of the claim that workplace discrimination based on sexual orientation and gender identity is a problem have the burden of providing substantive evidence of this harm. Additionally, it should be their burden to provide proof that the discrimination is based upon these characteristics. We are concerned with the lack of objectivity in identification of sexual orientation and gender identity. Employers are left to guess as to how their employees identify. And actually, that's a mere assumption because the term "perceived" is so vague and doesn't define whose perception is applicable. So we either have the guessing game or employees would need to proactively identify themselves according to their sexual orientation and/or gender identity. And this was mentioned before, but in the DSM-4, which was published in 2000, there were 30 listed sexual orientations, many of which I didn't personally even realize existed. To complicate the definition of sexual orientation even further, the newest version of the DSM, the DSM-5, released in either last year or 2013, dispatched these diagnoses. As is evidenced from the DSM-5, the idea of sexual identity was ambiguous enough to dispatch with those diagnostic criteria, and the subtypes of gender identity disorder based on sexual orientation were deleted. This bill operates on tedious considerations that rest on vague terms, such as "perceived." I would posit that many, if not most, employers here in Nebraska do not care what an employee's sexual orientation is, nor should they. Employers should have the right to make business decisions based upon numerous considerations, including behavior that is contrary to the mission and goals of the business, even if that behavior is based upon sexual orientation, homosexual, bisexual, or heterosexual. Finally, this bill does not serve as a shield against discrimination but a sword against people of conscience. And the issue was also raised comparing this to race, which is under federal law a suspect classification. And some of those elements of suspect classifications are the group has historically been discriminated against and/or have been subjected to prejudice, hostility, and/or stigma, perhaps due to, at least in part,

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stereotypes, they possess an immutable and/or highly visible trait, which I would argue that sexual orientation is not highly visible. Thank you for your time. [LB586]

SENATOR SEILER: Questions? [LB586]

SENATOR PANSING BROOKS: I just wondered how religion fits in that because, of course, we can't determine somebody's religion by looking at them, either. [LB586]

JOE NEUHAUS: It's not part of the issue. It's already been protected. [LB586]

SENATOR PANSING BROOKS: Exactly. [LB586]

JOE NEUHAUS: But actually, this bill seeks to take out creed, which is...it's just anybody's system of beliefs. [LB586]

SENATOR PANSING BROOKS: Well, there are different versions of what that actually means. But anyway, thank you. [LB586]

JOE NEUHAUS: Well, it's either secular or religious. It's just a set of beliefs. [LB586]

SENATOR PANSING BROOKS: Thank you very much. I appreciate it. [LB586]

JOE NEUHAUS: Thank you. [LB586]

SENATOR SEILER: Thank you. Next witness. [LB586]

MATT HEFFRON: (Exhibits 11 and 12) Senator Seiler, this is my third time, so I'll keep it real brief. I'm sure you'll be glad to hear that. I am Matt Heffron, H-e-f-f-r-o-n. I'm an Omaha attorney and also a member of the Omaha branch of the Thomas More Society. I do not intend to give an in-depth analysis, obviously, of this act, and I will go on record that everyone I know, especially at the Thomas More Society, is very much against discrimination. We also though are very much against unintended consequences, and that is one of the difficulties with walking Nebraska as a state into this act. I have distributed here or is being distributed a very thorough paper by Ryan Anderson of Washington, D.C., concerning...I think one of the senators asked, what is the name of the federal act? Well, the federal act that's similar to the one that Nebraska is proposing is the Employment Non-Discrimination Act, ENDA, of 2013. Mr. Anderson has done a very thorough analysis and I will rely on that for those of you who are interested in reading it.

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It talks about some of those unintended consequences, most of which, which a number of the other witnesses have talked about, deal with conscience rights. And that is one thing that the Thomas More Society is very concerned about. I also have distributed a paper done on my behalf by the Thomas More Society which talks about just how extended the effect of this act is going to be. And it lists all of those various acts that are going to be and areas of the law that are going to be affected by LB586. So my concern is, as a longtime Nebraskan who grew up here, is that, before we jump off this cliff, we better sure know what we're getting into. I have nothing further. [LB586]

SENATOR SEILER: Any questions? I have one. Do you know of any litigation in Nebraska involving the constitutional right to not be discriminated for sex or... [LB586]

MATTHEW HEFFRON: You know, Senator, I heard you ask that and I smiled because, I thought, I wish I had time to send a text message back to get some of that. I don't. I don't off the top of my head. [LB586]

SENATOR SEILER: Okay, I don't, either. That's why I wondered if I had missed anything. [LB586]

MATTHEW HEFFRON: I can try to get it for you though if you'd like. [LB586]

SENATOR SEILER: Thank you. Next witness. [LB586]

DAVID MEYER: (Exhibit 13) Thank you, Mr. Chairman and the Judiciary Committee. I'm Dave Meyer from Omaha, Nebraska, just a concerned citizen. And I'm here to express my being against this particular legislation. Some of it I'll share has probably already been talked about, and I just want to reemphasize. But I'm not sure we're solving a problem that exists, okay? But before I get into that, I want to just share my personal beliefs. I, as many others that have testified, you know, I've lived with a gay person when I was single. I've been married several years. I've had friends that are of the same-sex situation. I've worked with those individuals. You know, I agree they should not be discriminated against. You know, you should be hired purely based upon your ability to do the job to, you know, to the design of the position that's been, you know, established by the employer. And I think it is unjust that individuals in that situation feel...and if they have been unjustly hired or terminated because of that, I don't think that's right. But what's going on here, you know, we've got a situation where, okay, I heard statistically less than 3 percent of our state profess to be of same-sex orientation. And we're looking to actually create, as Mr. Awodele pointed out, we're actually creating a new class. Okay? One of the things that...and I'm no attorney, but I think we all know what the constitution says, you know, and the First Amendment gives protection for freedom of expression, freedom of speech, and freedom of

religion. And I know this isn't a religious issue, but the issue that happens when you segment out this particular class is, if you think about it, okay, you and I each have our own beliefs. You already struck the word that the prior gentleman made note of. You took the word out called "creed." Well, creed is a statement of shared, expressed beliefs of a particular religious community, a body that has a similar belief and core tenets. Okay? So you've taken out the protection for that which is protected by the constitution. I don't know if that was intentional or an oversight, but it sure looks intentional because it's specifically crossed out. So now you've got an employer that, as you heard that other gentleman, he doesn't even know how many same-sex employees because he doesn't care. They're doing a good job. But you're creating a section now that may cause him to have to figure that out. And this protection issue, I mean, the issue to me is much bigger than fairness of hiring. We all agree there should be fairness of hiring and there should be no discrimination because of this issue. But we're ignoring what's going on, on the national level, and you know that. I mean on a national level it's been published in several periodicals what the intent of the LGBT situation is. They've got a five-step process that they train their people. And the ultimate one is when they get to, after this phase, when...get...when laws of this stature have been passed in other jurisdictions, they create and force participation and then they go to punishment of dissenters. And one of the issues that is concerning for me is you've pulled the word "creed" and creed... [LB586]

SENATOR SEILER: Sir, sir, you have a red light. [LB586]

DAVID MEYER: Creed goes right along with what's being done nationally. Michaelangelo Signorile confessed... [LB586]

SENATOR SEILER: Sir, you're...you have a red light. You've used your time. [LB586]

DAVID MEYER: Okay. May I ask for an additional minute? [LB586]

SENATOR SEILER: That's up to the senators. [LB586]

SENATOR WILLIAMS: I would like to hear your final comment, if you'd make it short, please. [LB586]

DAVID MEYER: Okay. Well, Michaelangelo, in representation of legislation at the federal level, Employment Non-Discrimination Act, admitted that when legislation gets to the federal level, it will remove any protection for the creed, for the religious belief, okay, and that's exactly what's going on here. So now you put yourself in a position as an employer that maybe has those beliefs, and there's documented examples--I don't have time to read them; I'll leave them with

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you--where there has been discrimination. But an example would be, okay, you put that in there, now an employer would be unable to enforce gender-specific dress codes for employees who interface with clients. Or here is an example: An employer wouldn't be able to prevent a male who wants to be a female or dress like a female from having access to the women's rest room, or vice versa; or a day-care provider against the wishes of their family clients would be required to hire a pedophile or a homosexual to help with childcare. Now you're going, well, where are you getting all that, that's not in the legislation proposed. But that's exactly where this activist legislation...they get in the door with this basic law and the next thing you know they go after everything and they literally attack the other side. And I think you really need to give serious consideration and go back to my initial premise. I think we're trying to solve a problem that doesn't exist. We only have 3 percent of our society, and you're now creating a new class. If you need to create that new class, then I would advocate you need another class, which is protection for the heterosexual business owner that believes in God, because they will actually be "stricked" with the strike of "creed" being pulled from your wording. Thank you. [LB586]

SENATOR SEILER: Thank you. Any questions? [LB586]

SENATOR PANSING BROOKS: I just wanted to add that, of course, religion is not stricken in this, in any of this, so... [LB586]

DAVID MEYER: Well, obviously, the authors... [LB586]

SENATOR COASH: We're good. We're good. [LB586]

DAVID MEYER: ...of the original intent had both. Why are they striking it now? [LB586]

SENATOR SEILER: Next witness. [LB586]

AMBER PARKER: Hi. My name...good evening...Amber, A-m-b-e-r, Parker, P-a-r-k-e-r. So in LB586, the bill is not a question of employment in what this legislation entails. I talked earlier about the foundation and we need to look at what feeds and nourishes the roots of proposed legislation. And I have a couple testimonies here. I have a couple friends that are going through some pretty hard times right now. One is facing up...her father, because of a pastor and has stood up against an equal rights ordinance in the state of Texas, is going through quite a bit right now. The mayor subpoenaed them. They had to show different things. It's made national news. LB586 is setting up a premises for this type of action to take place in our state, which is greatly concerning. Another area I'd like to talk about, I haven't heard about law enforcement. In Olympia, Washington, a man identifies himself as Colleen Francis, is 45 years old, and he uses

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the women's shower and sauna and walks around naked in the locker room, exposing himself. And there have been complaints. Police have been called. But because of a similar legislation that sits before you this day, they will not arrest him. And this is even in front of children. Parents are just irate. I would be, as well. The other testimony I want to give is I have a friend who owns Sweet Cakes bakery in Oregon. At this time, because they have said no to baking a cake for a same-sex couple, for a homosexual couple, they now are facing up to \$200,000 in fines. One thing when we talk about the constitution of the United States we know: unalienable rights. We are protected. It's sad to say, but I am not going to be persuaded. Every state senator that stands here before us, you are to be underneath the umbrella of our supreme law in the land, and that's the Constitution of the United States of America. We see time and time again it is not the victims of the LGBT but the victims of those who want to stand for natural marriage, stand for natural families, stand up and say, we want to hire good workers. But if there's improper or misbehavior on the job, we're now fearful of saying anything because we know that they may identify themselves as lesbian, gay, bisexual, or transgender. The other issue I haven't heard addressed in this, that LB586 does not address, is those who have walked away from that lifestyle and how they can be a target with LB586, as well. [LB586]

SENATOR SEILER: Any questions? Thank you for your testimony. [LB586]

AMBER PARKER: Thank you. [LB586]

SENATOR SEILER: Next witness. [LB586]

DEAN MAGEE: Hi. I'm Dean Magee. I am from Omaha. I'm here as a business owner and a citizen. I've been in business 25 years and I employ 80-90 people each year. I want to make very clear here I'm opposing this bill for one specific reason, and that is it takes away my rights. You asked earlier, well, they've got religion in there, but why did they strike creed? It's interesting. I went Webster. What does creed say? Creed says confession...a creed is a confession, a symbol, a statement of faith. It is a statement that is shared expression of the beliefs in the community. And what happens here is I'm in Omaha. I can be working and I do. I work with my employees. And we're having a discussion. One of them is going to get married and I simply ask, yeah, you know, who are you getting married to, what are you going to do? And I said, well, you know, what do you think of marriage? And they said, I think a marriage is between a man and a woman, I believe what the Bible is. In Omaha, under that legislation, that's a violation. Hey, it's a hostile work environment. I can't say that to an employee. Now I hear no one has been subjected to a fine. How would you like to run your business knowing that if this person is a transgender or GBLT candidate...and I've got many working for me. They're good workers. I have no problem. I talk about my faith, they talk about theirs, and we have an interaction and we go along. There's laws on the books today. EEOC, I can't discriminate. There's laws I can't ask if you're married. I

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can't ask your religion. There's a whole litany of things I can't do that are already on they books. Now granted, I...my business is a business that I believe God has given me a business and he...and I'm a steward of his business. I treat everyone equal. I know there is abuses. But why do we have to create a law that's going to create...I had to contact our insurance company in passing the GBLT agenda in Omaha to see if I have to amend my insurance to protect myself against a suit on someone coming...but there isn't one, but there may be. I know they got problems. More importantly is I want to run my business and I want to run it well on any good people. And I hire good people of...and their sexual orientation, I don't ask. You find out. And my rule is, what you're allowed to do, you can do whatever you want outside, just...we're running a business here. Dress code, I haven't run across a transgender yet, because I've got a dress code for women and I've got a dress code for men. And if they flip back and forth, I've heard stories, the kids out in Oregon that one week they go to the girls' bathroom and the next week they're a guy and they're going back to the boys'. And it's a slippery slope up there, guys. And so this bill has a lot of impact. My heart goes out to the GBLT agenda because they're challenged and they're pulled in a direction. So I finish with that. [LB586]

SENATOR SEILER: Thank you. Any further questions? Thank you for your testimony. Next witness. [LB586]

MARIS BENTLEY: (Exhibit 14) Thank you. My name is Maris Bentley. I reside in Omaha, Nebraska. I'm not going to apologize for testifying for the third time here and running us kind of late. And I know not to expect accolades from Senator Pansing Brooks which, by the way, Senator, is a form of discrimination. The question is, is it just or unjust discrimination? This bill, which purports to protect people who identify themselves primarily by their sexual behavior, is the first incremental step that LGBT activists have taken in other states to ultimately bring about their objective of legalizing, normalizing, and celebrating homosexuality and same-sex marriage. In state after state, this type of antidiscrimination policy has been the foot in the door of the homosexual agenda. On January 31, 2010, Arline Isaacson, lobbyist for the Massachusetts Gay and Lesbian Political Caucus, gave a key speech to homosexual and transgender activists in which he outlined the following strategies for success--and I ask you to think about what we've seen here today, too, during this hearing--use lots of emotion, including emotional personal stories; paint a picture of this being a fight against injustice and discrimination with lots of civil rights imagery--and by the way, this is not a civil rights issue; skin color is immutable; behavior, sexual behavior, is not; it is behavior, and we know that not all behaviors are created equal--portray themselves as victims; avoid discussing the details of the bill, what it would actually do in schools, businesses, but if you do, speak in generalities--it may be hard to speak about exactly what it would do because lots of times we don't know because of unintended consequences--portray it as the good side for civil rights and freedom, versus the unenlightened bad side--in other words, people like me, "rednecks," right?--make sure that legislators who support you believe that they are enlightened, good, intelligent people. State LGBT groups across the country

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continue to look to the Massachusetts homosexual lobby for guidance and strategies. Senators, you are being groomed--we're all being groomed--by a very small group of people who want to bring about a radical redefinition of marriage and family, the likes of which has never been seen before in human history. Senators, are you willing to vote to plunge Nebraska headlong into this social experimentation? Thank you. [LB586]

SENATOR SEILER: Questions? [LB586]

SENATOR PANSING BROOKS: I do just want to thank you for coming and testifying, Ms. Bentley. [LB586]

MARIS BENTLEY: Thank you. I appreciate it. [LB586]

SENATOR SEILER: Thank you. [LB586]

MARIS BENTLEY: Thank you. [LB586]

SENATOR SEILER: Next witness. [LB586]

MARK BONKIEWICZ: (Exhibit 15) Chairman Seiler and Senators of the Judiciary Committee, Mark Bonkiewicz, M-a-r-k B-o-n-k-i-e-w-i-c-z, originally from Sidney, Nebraska, now live in Omaha. I'm here to ask you to vote against LB586. The reason is that a document that's being passed out to you now, this comes from Matt Barber, who is...who works at Liberty University and permission to use it is on the last page of the document that's been sent. If you look at what's going on in the United States and worldwide, the goal of the homosexual movement, the ultimate goal, is to silence Christians or to criminalize Christian beliefs in the public square. On the front page, the highlight, the ENDA, Employment Non-Discrimination Act, that was passed by the Senate last year, vote 64-32, but is still being held up in the house. When you go to page 2, the highlight, you have Chai Feldblum is a lesbian activist who has publicly supported legalized polygamy and bisexual polygamy. She's President Obama's recess-appointed commissioner to the U.S. Equal Employment Opportunity Commission. In the past, she has repeated and candidly summed up the mind-set behind the bill. She has publicly stated that the battle between religious freedom and unfettered sexual license, a/k/a gay rights, is a zero-sum game, meaning the two cannot possibly coexist in harmony. It's a winner-takes-all position. When asked about the Christian business owner or religious organization that morally objects to hiring people openly engaged in the homosexual lifestyle, Ms. Feldblum snapped, quote, gays win, Christians lose, end quote. And where Americans' constitutionally guaranteed right to religious liberty comes into conflict with the postmodern concept of homosexual rights, Ms. Feldblum has admitted to

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having, quote, a hard time coming up with any case in which religious liberty should win, end quote. So we have the constitution and the First Amendment saying freedom of speech, freedom of religion, and it's being assaulted with the homosexual movement. We have a huge challenge here. Please, vote against LB586. Thank you. [LB586]

SENATOR SEILER: Seeing no questions, thank you for your testimony. Next witness. Next witness. Seeing none, in the neutral. I told you we'd get out of here before 11:30. You may close. [LB586]

SENATOR MORFELD: Chairman Seiler, members of the committee, first off, I want to thank all the testifiers that came out tonight. This isn't an attack on religion. I'm a religious person. I go to church. What this is, is that we need to demonstrate equality and respect for Nebraskans, not simply by stating it here today--I heard that from a lot of people today--but by providing everyone with equality before the law. And in order to do that, we have to put it in the law. And, you know, there are definitions to what we're talking about here. Mr. Schleppenbach from the Catholic Conference stated that this is vague. Well, in fact, it's clearly defined, gender identity on page 25 and sexual orientation on page 26. And in regard to your question, Senator Seiler, about whether or not federal law provides protection for sex already, if you look at former Senator Conrad's legal analysis on her ACLU handout that she sent out, she actually analyzed that in about a page or two. And I was going to read it, but I won't belabor it tonight. You guys can... [LB586]

SENATOR SEILER: No, but I was asking had there been any Nebraska cases following along the federal discrimination cases. [LB586]

SENATOR MORFELD: Not yet, not yet, sir, not on...for LGBT folks. [LB586]

SENATOR SEILER: And I just find that... [LB586]

SENATOR MORFELD: Yeah, yeah. [LB586]

SENATOR SEILER: Well, anybody that's been discriminated against, I find that kind of unusual. [LB586]

SENATOR MORFELD: Well, based on simple sex, so man, woman, there has probably been some cases. But based on LGBT... [LB586]

SENATOR SEILER: No, there isn't. [LB586]

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SENATOR MORFELD: There haven't? Okay, well, I'm just...I'm guessing that there probably has been in the past. But it... [LB586]

SENATOR SEILER: I'm a little disenchanted with the trial bar. [LB586]

SENATOR MORFELD: (Laugh) Well, I can get Mr. Lindsay in here. In any case, you know, I'm an employer, too, and it's interesting how the representatives of the two largest business communities in the state of Nebraska have come in here and said, listen, we represent all these businesses and we've found that this is not going to be an issue. And as an employer who employs 30 people, I can tell you, it's pretty simple. You don't fire somebody for being LGBT. You can fire them for being incompetent, you can fire them for not doing their job, but you can't fire them for being LGBT, being who they are. And that's the purpose of this legislation and that's the purpose of this bill. Age is already protected, for the attorney that had been practicing for 35 years. It's the first thing we learn in law school, different classes of protection. Age is already protected. And there's no antireligion agenda here, not at all. What there is, is there is an agenda of equality here, ensuring that people have legal protections, not just simply people coming up here and stating, hey, I treat everybody great. That's fantastic. I respect that. But that needs to be put into law. There was a lot of people that said that back in the '60s, too, hey, why do we need a law for this, we treat people...everybody equal. But not everybody was being treated equal, and that's the purpose of codifying it in our law. And I just want to emphasize that we need to bring meaning to the words "equality before the law." It's in the symbol that most of us wear on our jacket. We need to bring meaning to it, and that's what this legislation does. And I want to thank everybody for their time. I know it's been a late night. And I'm more than happy to answer any questions here or elsewhere. [LB586]

SENATOR SEILER: Any questions? Thank you. [LB586]

SENATOR MORFELD: Thank you. [LB586]

SENATOR SEILER: This closes the hearing. (See also Exhibits 16-20.) [LB586]