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Floor Debate  
April 06, 2017

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[LB173 LB276 LB300 LB461]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good morning, ladies and gentleman. Welcome to the George W. Norris Legislative Chamber for the sixty-first day of the One Hundred Fifth Legislature, First Session. Our chaplain for today is Pastor LaVern Smith of Community Bible Church in Omaha, Nebraska, Senator Smith's district. Please rise.

PASTOR SMITH: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Pastor Smith. I call to over the sixty-first day of the One Hundred Fifth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

PRESIDENT FOLEY: Thank you, Mr. Clerk. Are there any corrections for the Journal?

ASSISTANT CLERK: No corrections this morning.

PRESIDENT FOLEY: Thank you, sir. Are there any messages, reports, or announcements?

ASSISTANT CLERK: Just one item, Mr. President, that various agency reports have been filed electronically and are available through the Legislature's Web site. (Legislative Journal page 951.)

PRESIDENT FOLEY: Thank you. We'll now proceed to first item on the agenda. Mr. Clerk.

ASSISTANT CLERK: Senator Kolterman would report on the appointment by the Nebraska Retirement Systems Committee of James Schulz to the Public Employees Retirement Board. (Legislative Journal page 770.)

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PRESIDENT FOLEY: Senator Kolterman, you're recognized to open on the Retirement Systems report.

SENATOR KOLTERMAN: Thank you, Mr. President. Good morning, colleagues. The Nebraska Retirement Systems Committee held a confirmation hearing on March 24 for James Schulz, who has been appointed by the Governor to fill one of the public member seats on the Nebraska Public Employees Retirement Board. This is a five-year term. Mr. Schulz graduated from UNL with a Bachelor of Science in Business Administration with an emphasis in actuarial science. From 1972 to 1979, he worked for Bankers Life, which is now known as Ameritas, in their pension administration and actuarial science. From 1979 to 2010, he was with Midlands Financial Benefits as a licensed agent, registered representative in sales and service of insurance, employee benefits, and investment products. From 2010 until his preretirement in 2013, he was senior vice president of retirement plans at Ameritas. He's also a fifth-generation resident of Seward County. His background will make him a valuable member of the Nebraska Public Employees Retirement Board which oversees all the state retirement plans. The Retirement Committee unanimously voted to move James Schulz's appointment to the Legislature for confirmation. I ask for your support in confirming this appointment to the Public Employees Retirement Board. Thank you.

PRESIDENT FOLEY: Thank you, Senator Kolterman. Debate is now open on the confirmation report. Seeing no members wishing to speak, Senator Kolterman, you're recognized to close on the report. He waives closing. The question before the body is the adoption of the confirmation report of the Retirement Systems Committee. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk.

ASSISTANT CLERK: (Record vote, Legislative Journal pages 951-952.) 30 ayes, 0 nays on the adoption of the report.

PRESIDENT FOLEY: The report is adopted. Mr. Clerk.

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ASSISTANT CLERK: Mr. President, next report also from the Nebraska Retirement Systems Committee is to Richard DeFusco to the Nebraska Investment Council. (Legislative Journal page 888.)

PRESIDENT FOLEY: Senator Kolterman, you're recognized once again for your second report.

SENATOR KOLTERMAN: I'm sorry, I'm not prepared for that report today. I didn't get that one.

PRESIDENT FOLEY: That's fine. We can pass over that for now and come back to it another day.

SENATOR KOLTERMAN: Thank you.

PRESIDENT FOLEY: Thanks, Senator Kolterman. Mr. Clerk.

ASSISTANT CLERK: Mr. President, the next report from the Health and Human Services Committee is to various appointments to the Board of Emergency Medical Services. (Legislative Journal pages 832.)

PRESIDENT FOLEY: Senator Riepe, you're recognized to open on the confirmation report.

SENATOR RIEPE: Thank you, Mr. President and colleagues.

PRESIDENT FOLEY: Excuse me, Senator. Members, please come to order.

SENATOR RIEPE: Thank you. I rise to present five reappointments to the Board of Emergency Medical Services. The Board of Emergency Medical Services studies ways to provide effective and responsible patient-centered care while upholding emergency medical services, an essential service for the state. The board determines the amount of education and training that is required to obtain a license or certification and the development of new standards and protocols of care during an emergency. Their first reappointment that I present to you is Dr. James Smith, who currently serves as the chair of the board. He also serves as chairman of the North Platte board of

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Great Plains Health, and he is medical director of the Emergency Department of Great Plains Regional Medical Center, as a staff physician in the Emergency Department at that Regional Center. He is also the medical director for both the North Platte Fire and Rescue, and Great Plains LifeNet. The second nominee for reappointment is Dr. Thomas Deegan. He is a pediatrician emergency medicine physician at Children's Hospital in Omaha. He serves as the primary medical director on the state of education...or state Nebraska EMS for Children Program and is on the advisory board for the EMS for Children state grant program. The third reappointment is Joel Cerny, who has been on the board since 2000 and is the past-president of the Nebraska State Volunteer Firefighters Association. Mr. Cerny is currently on the National Volunteer Fire Council board. The next candidate for reappointment is Linda Jensen, and she has served already two terms on the board. She currently is the EMS coordinator for the Immanuel Medical Center Emergency Department and is a physician surrogate for three volunteer rescue squads. Ms. Jensen happens to be a registered nurse. The last nominee for reappointment is Mr. Scott Wiebe, who has served as the secretary of the Emergency Council and is currently he is the EMS supervisor for the Lincoln Fire and Rescue. He is experienced in all aspects of EMS, including ground transportation, helicopter transport, and fixed wing EMS operations. This is a very balanced group, a very qualified and competent group, and I ask for your green vote. And thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Riepe. Debate is now open on the confirmation report of the Health Committee. Seeing no members wishing to speak, Senator Riepe, you're recognized to close. He waives closing. The question before the body is the adoption of the confirmation report of the Health and Human Services Committee. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk.

ASSISTANT CLERK: (Record vote, Legislative Journal pages 952-953.) 31 aye, 0 nays on the adoption of the report.

PRESIDENT FOLEY: The confirmation report is adopted. We'll proceed now to General File, 2017 senator priority bills. Mr. Clerk.

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ASSISTANT CLERK: Mr. President, LB173 by Senator Morfeld. (Read title.) Bill was read for the first time on January 10. It was referred to the Judiciary Committee. That committee reports the bill to General File with no committee amendments. [LB173]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Morfeld, you're recognized to open on LB173. [LB173]

SENATOR MORFELD: Thank you, Mr. President. Colleagues, LB173 is a bill whose time has come. This legislation is simple. It simply makes it so that someone cannot be fired in Nebraska solely for being LGBT. Someone can still be fired for being incompetent, lazy, late to work, or for any other reason reasonably related to their job. I want to thank Senator Bolz for prioritizing this legislation. And I want to be clear, voting against LB173 is not only allowing people to be fired solely for being gay or LGBT but making a statement that not only are we okay with you being fired for being gay but we want to be able to have the right to tell you that's why you are being fired. As I've talked to employers in my district and across the state, the number one issue they bring up is the need to retain and attract young Nebraskans in an increasingly globalized and dynamic marketplace. If we are going to build a twenty-first century economy in our state that will retain and attract young Nebraskans then we need to act like we are in the twenty-first century and pass commonly accepted civil rights protections for a talented and industrious segment of our population. LB173 has already been in place in Omaha for nearly five years, and I have passed out Mayor Jean Stothert's letter of support for this legislation. The economy there has done well. People are thriving. They have robust churches and practice of religion. None of the parade of horrors that the opponents had suggested have occurred. In fact, as I noted, the Republican mayor of Omaha, Jean Stothert, is in support of this legislation. No one should be fired for who they are or who they love but, rather, the quality of their work. That is fairness and that is the Nebraska way. If you oppose this legislation, ask yourself would you fire someone solely because they are gay? Would you support someone else firing someone solely because they are gay? If so, I would like you to provide that instance on this floor. Would you support firing our colleague Patty Pansing Brooks's son, Taylor, for being gay? Because that's what can happen in Nebraska right now, and it happens. If the answer is no, then vote for this legislation because actions speak louder than words. The legislation amends the existing Nebraska Fair Employment Act and applies only to employers having 15 or more employees, which is the

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current law for the current protected classes; employers with state contracts, regardless of the number of employees; the state of Nebraska governmental agencies and political subdivisions. Our current employment nondiscrimination law enacted in 1960s prohibits discrimination based on race, color, religion, sex, disability, marital status, or national origin. This would add sexual orientation and gender identity. We maintain the current narrow religious ministerial exemption, which would apply to male priests or other types of examples such as that. As a young Nebraskan, this time for this legislation 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 also about Nebraska remaining competitive in the twenty-first century. We must provide basic protections afforded by most civilized industrial nations to LGBTQ Nebraskans. Businesses both large and small are more competitive when these fundamental protections are provided, because they are better to attract talent from all over the country and the world. And I want to note, colleagues, I don't live in a vacuum in this bill. I employ over 40 people. I understand all the different rules and regulations and the responsibilities of being an employer. And, in fact, at least 91 Nebraska businesses have already signed on to the human rights campaign "Equality is Our Business Pledge." These businesses include not only ConAgra, T.D. Ameritrade, Union Pacific, and Blue Cross and Blue Shield but also small businesses like is 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 these types of laws on the books. The United States military has ended "don't ask, don't tell," and our largest city of Omaha has enacted the ordinance I mentioned earlier. Further, the Nebraska Code of Professional Responsibility that governs me as an attorney and the Judicial Code of Conduct...the Judicial Code of Conduct that covers Nebraska judges bans discrimination based on sexual orientation. Members of the judiciary and bar association have been free to practice their religion and there has been no conflicts with the administration of justice. The ability to discriminate against someone in the workplace because someone is lesbian, gay, bisexual, or transgender, because of religious or 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, or a man, or even married, which is a status that no one is born with but, rather, chosen. Not being able to fire someone simply because they are gay does

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not violate anyone's religious freedom. People are still free to practice their religion and worship how they please. LB173 maintains the narrow ministerial exemption for clergy that has been in place since the 1960s with all of the other protected classes. I have heard repeatedly on this floor that no one should be fired simply for being gay and that they believe gay people should be treated with dignity and respect. Then why would we allow someone to be fired for that? We don't allow someone to be fired solely for being a woman or black or disabled or because they're too old. Then why would we allow it for someone who is simply gay? LGBT Nebraskans are mothers and fathers, brothers and sisters, taxpayers and, most importantly, humans, and they should be treated with the same dignity and respect as everyone else, and that makes it so and we should make it so that our laws protect them the same way. I introduced LB173 because I believe that no one should be fired for who they are or who they love. I'm honored that both the Lincoln and Omaha Chambers of Commerce, along with the mayors of both Lincoln and Omaha and 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 LB173, because when it comes to treating people with dignity and respect, actions always speak louder than words. It's time for us to take action together. Thank you. [LB173]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Mr. Clerk. [LB173]

ASSISTANT CLERK: Mr. President, Senator Bolz would offer AM958. (Legislative Journal page 953.) [LB173]

PRESIDENT FOLEY: Senator Bolz, you're recognized to open on AM958. [LB173]

SENATOR BOLZ: Thank you, Mr. President. I rise in support of LB173. And I was listening to the radio I think just yesterday and a new report commissioned by the Governor illustrated that 66 percent of jobs in Nebraska in the future will require a college degree or higher, which just underscores the point that we have been talking about for the last four or five years while I've been in office, which is that the chambers of commerce and the business interests in Nebraska define work force as the number one priority in terms of growing the Nebraska economy. And so I see LB173 as a commitment towards bringing all kinds of workers with all kinds of skills and gifts into Nebraska and making sure that they can contribute. So I support the bill. This

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amendment is just a brief amendment. When I was reviewing the bill after I chose it as my priority bill, I noticed just a couple of inconsistencies with the language. The most substantive one is changing "person" to "persons" so that it applies to the multiplicity, not the singular. So this is really just a technical amendment, but I wanted to offer it to get that cleaned up. I certainly support Senator Morfeld. I support this bill and I'll talk more about the substance of LB173 in a few minutes, but wanted to introduce the amendment and reinforce that I see this as an employment bill. Thank you, Mr. President. [LB173]

PRESIDENT FOLEY: Thank you, Senator Bolz. Members, the debate is now open on LB173 and the related amendments. Senator Pansing Brooks, you're first in the queue, followed by 12 others. Senator Pansing Brooks. [LB173]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. Well, I rise today to support, again, LB173 and Senator Bolz's amendment, AM958. I want to thank Senator Morfeld for continuing to battle for the rights of our citizens. You know, it's sort of a magical day in the Capitol today. I hope you're all aware of it. Two pretty important things are happening in this Capitol that deal with human rights. Downstairs in our hearing rooms the Liquor Control Commission is having their hearing on Whiteclay, Nebraska, and the liquor licenses there. They are dealing with vulnerable people. That hearing came about because of the hearing on my LR, and thanks in huge part to the General Affairs Committee for having the hearing last fall, and that's the hearing where the issue of law enforcement came up that triggered the Liquor Control Commission having their hearing today. So downstairs people are dealing with the rights and what's happening to a very vulnerable people in our society. And today up here we're having a similar discussion about the rights of a vulnerable people who have both historically been hated and reviled. Both groups have the highest teen suicide rate of any groups in the country. LGBT teens and Native teens have the highest suicide rates of anyone in the country. Now we know the travesties we've done and imposed upon the Native people about what we've taken from them. And I'm not trying to compare one versus the other, but both are a vulnerable people. Both are people who are human beings within the rights of the law and the constitution and they deserve our protection and our care. So I want to thank the Legislature for your role in helping to move forward on the important issues of Whiteclay, Nebraska. Now I'm asking you to listen about another issue that has to do with vulnerable people. LB173 is simple. It's about letting people

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work and not be fired because of the person whom they love. You can fire people for the bad job they're doing. You can fire people because whatever they're doing is distracting. If they come in dress that is not appropriate and you continue to talk to them, you can fire them. But you can't fire them for what is happening off-hours. And it's not up to the Legislature to get into somebody's bedroom and decide what they can or can't do. It's not. And all of you know that. You know about government intrusion and what you fight about all the time. But somehow this is different. These people are guilty. I'm trying to remember and figure out at which point after they were born they became guilty and less worthy of our protections. [LB173]

PRESIDENT FOLEY: One minute. [LB173]

SENATOR PANSING BROOKS: Was it when they were two? Or was it when they were 17? At what point does that child or that adult or that human being become guilty and no longer worthy? Our son is gay. He's left the state. No problem, you do not have to vote for this to protect my son. He's an open source cyber analyst in Washington, D.C., helping to protect our country. But don't worry, you don't have to fight to protect my son. He's already protected. He's moved away from here. He's fighting for our country, not in the military but in another way, fighting through open source cyber analysis. Think that's not valuable to our country right now? I'm not done. I'm sorry to get emotional. It is emotional to me. [LB173]

PRESIDENT FOLEY: Time, Senator. [LB173]

SENATOR PANSING BROOKS: Thank you. [LB173]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Baker. [LB173]

SENATOR BAKER: Thank you, Mr. President, members of the body. I think I can be helpful here in helping sort this out. There's probably two different camps of people who would be against LB173. One group is because of deeply held religious beliefs, and the other group would be bigots. One is good; one is bad. One is righteous; one is contemptible. A bigot is a person who is, by definition of the dictionary, bigot is a person who is obstinately or intolerably devoted to his or her own opinions and prejudices, especially one who regards or treats members of a

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group, such as a racial or ethnic group, with hatred and intolerance. So how can a bigot know who to look down on? What's easy? People who are not like them. Fortunately, nature has color-coded people to make it easier to identify some people who you can look down on. Adolf Hitler had a pretty good blueprint for bigots. It wasn't just Jews that he went after. It was handicapped people, gypsies, homosexuals, and in favor of people who were blue-eyed and blonde-haired. We can throw in some other categories of people too that, you know, bigots could and have looked down on: you know people...Eastern European origin, of questionable intellect, in the past Irish...people of Irish descent or Italians. I've heard from many people through e-mails, phone calls, and by and large it's people who are in that first camp, people who have the objection based on deeply held religious views. And I'd say keep those form letters and cards coming. They express to me they do understand the need to treat all people with dignity and respect. However, they're deeply held religious views require them to be against something like this. So, my colleagues, you can help us out if you're going to be against this. You can let us know that you're in the good group, that you're doing this because of deeply held religious views and not that you're a bigot. Thank you. [LB173]

PRESIDENT FOLEY: Thank you, Senator Baker. Senator Crawford. [LB173]

SENATOR CRAWFORD: Thank you, Mr. Lieutenant Governor. Good morning, colleagues. I rise in enthusiastic support of LB173 and AM958. And, colleagues, in this sesquicentennial year of the great state of Nebraska, this morning is a good morning to reflect on our motto: "Equality Before the Law." What does that mean? It's an important principle for us to protect. Now I know there have been some colleagues who have expressed a concern for protecting religious practices and religious beliefs, and that is also a very important principle and an important value for us to protect. And, colleagues, as a member of an Evangelical Christian community in my home congregation and as a member of the Catholic community through my employment at Creighton University, I understand the importance of deeply held religious beliefs. And I understand that they not only shape our decisions about religious practice that we very carefully protect and that we've actually worked to protect even in this year, like the things you might wear because of your religious beliefs or the day that you might need to take a Sabbath because of your religious beliefs, that these deeply held religious beliefs also shape our fundamental values. And I know for me, as a part of both of these faith communities, they do shape my fundamental values on

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many of the bills that we have before us. Those deeply held religious beliefs are why I fight so hard for minimum wage, because I know the parable of the vineyard workers and how it was so important that even those who weren't able to work till the end of the day still got a wage to feed their family. Now so, colleagues, I understand that the Christian community is deeply divided over issues about sexual orientation and what it means and how to interpret that. But, colleagues, I would urge you to consider, in your deeply held Christian beliefs, what that faith says about discrimination, excluding people. Think about the model. Think about our core teacher, Jesus, who taught with authority as no one had seen before. How did he treat tax collectors? How did he treat women? How did he treat Samaritans, deeply held religious beliefs that said we can't mix with those people, we can't hire them for our carpentry shop, right? The deeply...what did he model? Whatever you might believe, he modeled respect for the person and inclusiveness. I ask you, if you feel that you can't vote for LB173 because of deeply held religious beliefs, I ask you to search hard for the religious principle of exclusion and discrimination in employment and see if that really truly is in your religious tradition. What in your religious tradition says it's okay to discriminate against someone, keep them from earning a wage for their family... [LB173]

PRESIDENT FOLEY: One minute. [LB173]

SENATOR CRAWFORD: Thank you, Mr. President...because of their beliefs? You do not have to agree with their lifestyle. You do not have to practice the lifestyle. You're welcome to continue to believe that that lifestyle is sinful. But you should not discriminate against them in our work force if you are a business in Nebraska. We expect you to honor our motto: "Equality Before the Law." Thank you, Mr. President. [LB173]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Vargas. [LB173]

SENATOR VARGAS: Thank you very much, Lieutenant Governor. "Equality Before the Law," thank you for reminding us of that, Senator Crawford. Good morning, colleagues. I rise today in strong support of LB173. I want to thank Senator Morfeld for introducing this incredibly important legislation and Senator Bolz for prioritizing it. I rise today because I believe my support for LB173 is simple: Discrimination is wrong, period. You know, growing up, seeing my parents face constant discrimination because of their identity as immigrants reminds me that we

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continue to face discrimination in this country. I myself have experienced discrimination because of my own identity as a Latino and an immigrant. I felt the judgment and the discrimination that people placed on a piece of my identity in school, in the workplace, in my everyday life, even on this floor. And I don't believe anyone should have to go through what I went through. No one should be discriminated against for any piece of their identity. And one of the reasons I have dedicated myself to public service is to work against that kind of discrimination that I have experienced. We should all strive every single day to create a more inclusive Nebraska. Denying equal opportunity for employment because of one's identity, their race, religion, sex, disability, and country of origin is against the law and Nebraska already recognizes that in statute, which I'm very proud to say. But there are Nebraskans that still experience loss of employment opportunities and discrimination because of who they are and who they love. You know, we spend a lot of time talking about the future of our state and about how we can attract successful businesses and accomplished professionals in academics to move here to be part of our communities, to invest in our state and stay here. That in our laws we allow the LGBT community to be discriminated against in employment is a strike against us and it makes people think twice about moving here. Why move here if too many times in their choices do I have to hide who I am or put a picture of my spouse on my desk and risk losing my job? But in my view, the question before this body today is not how each of you individually feel about LGBT Nebraskans. The question before us is do you think it is okay for someone to be limited in their career prospects or fired because of how they feel and who they love? Now do you think that's fair? Do you believe that they deserve any less respect from this body? And is that equal justice under the law for all of our neighbors? In a letter that he wrote from a Birmingham jail almost exactly 54 years ago on April 16, 1963, Martin Luther King Jr. wrote to other clergy who challenged his leadership in the civil rights movement as unwise and untimely. He said to them, "I am cognizant of the interrelatedness of all communities and states. Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny." Colleagues, I stand before you and I hope that you all take these wise and timely words into consideration today. I actually am very privileged to serve with all of you and have enjoyed getting to know everyone and the open-mindedness that people have brought to different issues. It's why I ran. [LB173]

PRESIDENT FOLEY: One minute. [LB173]

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SENATOR VARGAS: It's why I'm here. And I want to ask you to stand with me and I urge your green vote on LB173. Thank you very much. [LB173]

PRESIDENT FOLEY: Thank you, Senator Vargas. Senator Quick. [LB173]

SENATOR QUICK: Thank you, Mr. President. And I rise in support of LB173 and also the amendment, AM958. And I, too, thank Senator Morfeld for bringing this forward and for Senator Bolz for prioritizing it. The reason I'm in support of this and the main reason is no one in this state or this country should be discriminated against in any way, shape, or form. I also want to talk a little about my upbringing. My parents always taught me...they raised me to be respectful of everyone, to show compassion for others, and not to judge anyone. And I hope that I carry that through with how I am down here in the Legislature and in my life. I was also raised in the Baptist faith but became a Catholic before I was married, and that was my own choice. And I will tell you in both of those faiths that I practice in, they taught me to be respectful of others. They taught me not to judge others. I can only live my life the way I can and look out for myself and make sure that I'm living my faith according to my plan and to God's plan. And I don't judge others how they live their lives and I don't think anyone should be discriminated against just for wanting to have a job. And I also have a very good friend, actually had a very good friend--he passed away--but he was from the LGBT community. He was gay. And this man showed me that he lived his life more Christian than I would say even I do in my life. That man would give people the shirt off his back. He did more things for people that I just can't believe how much of his life he gave to others. And I just want others to know that that man lived in poverty his whole life. He went without health insurance and that's one of the reasons that he ended up passing away sooner than he should have, because he couldn't get the healthcare he needed to help him with his illness. And I'm not...I can't say that he was ever discriminated against, but I'm sure living in poverty the way he did, he almost had to be. So I just...I want to impress upon people that we can't discriminate against others in any way, shape, or form. Thank you, Mr. President. [LB173]

PRESIDENT FOLEY: Thank you, Senator Quick. Senator Hansen. [LB173]

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SENATOR HANSEN: Thank you, Mr. President. Good morning, colleagues. I rise in support of LB173 and again, with others who have spoken, thank Senator Morfeld for introducing it, Senator Bolz for prioritizing it. I think this is a very important debate and discussion for us in the body to have. One reason and one way I approach LB173 is thinking about it like this. We are adding gender identity and sexual orientation to a series of already existing statutes, already existing statutes that prohibit a whole host of employment-based discrimination, discrimination based on religion, national origin, race, other categories. So obviously, past Legislatures, Legislatures before we were here, before I was here thought there was some sort of public policy purpose in banning employment discrimination in the state of Nebraska for various different categories. I think it's important to kind of take...just take a step back and, without necessarily looking at any specific group, think about why we as a state have continually over the years found this to be a good public policy purpose to ban discrimination in certain areas. Specifically, there are certain things that we as a society, we as the state view and understand and integral to a person's success in life that are fundamentally handled in the private sector, handled in private enterprise. Some of those that come to mind obviously are housing and employment. And what happens when there is free rein in those categories? I know LB173 only deals with employment. But what happens when there's free rein to discriminate in those categories? And we've seen this historically as we've grown as a country is that if there is a localized area where there's some sort of discrimination against a group, whether it's a religion, whether it's a national origin, whether it's a race, we see we create this kind of class of citizens, a class of people, who are struggling with unemployment, struggling with homelessness through no fault of their own, just because of who they are. And that either puts a burden on the state to then help in other ways or that puts a burden on just those individuals if the state isn't going to help them. And we have decided, as a public policy purpose, that there is a benefit to making sure that people are not arbitrarily denied employment, are not arbitrarily denied employment especially for factors for which they cannot control, for factors which are integral to them. And so that is why over time we have prevented employment discrimination against race, religion, national origin, disability status, and a whole host of other factors. I think it's time. I think that it's time to include sexual orientation and gender identity in those issues for the same reasons. We do not want to create or foster a group that is chronically struggling with employment, within other areas, and struggling economically. Now luckily, as has been listed, there are plenty of employers and, frankly, at least one city in our state that have gone up and taken...stepped up to the bat and are being very open and

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transparent about we are being inclusive, we believe this is good policy both for us as an employer and both for us as a municipality. So obviously, there are some options in the state and some protections there. But we still look at that. We still look at that. And I know I could personally share stories. People of my generation, people I went to high school with or know from high school and college who left to go to other states because maybe they worked for a company, maybe they worked for a company where they felt very secure and they knew that they were not going to be...risk being discriminated against by their specific employer. They had a significant other. They had a spouse who they were worried about and they were worried about them gaining employment. So when they are looking at possible places to look and possible places to move, this... [LB173]

PRESIDENT FOLEY: One minute. [LB173]

SENATOR HANSEN: Thank you, Mr. President...this becomes a factor. We see that. I can...we see that time and time again, especially in my generation. You know, nowadays rather than necessarily creating that group that's stuck within the state, our transportation system, our modern society just encourages us to leave the state. And when we, time and time again, talk about employability, skills, highly skilled workers, trained workers, all these things, when you're encouraging a lot of people from my generation, who are willing to be open about who they are as a person, to leave the state to be better protected, that seems counterintuitive to many other things that we've done. That's why I'm so glad to see so many businesses and so many chambers of commerce and things of that nature recognize the importance of a law like LB173. And I would encourage all of my colleagues to join me in supporting it. Thank you, Mr. President. [LB173]

PRESIDENT FOLEY: Thank you, Senator Hansen. Senator Wishart. [LB173]

SENATOR WISHART: Thank you, Mr. President. I rise strongly in support of LB173. First and foremost, this is about basic human rights. I was clear, very clear during my campaign when speaking with voters that I believed someone should not be fired solely because of who they love. And I have to say I have never been more proud to serve in this Legislature than today after hearing from so many of my colleagues on this legislation. I would ask all of my colleagues

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today to reach out to the young constituents in their district to ask them about this legislation. Both the Lincoln and Omaha Young Professionals Groups strongly support this legislation because they believe it is an important part of the community in which they want to live and work and raise their families. I've been contacted by many young Nebraskans in support of this legislation. I'll read you an e-mail from one of them. Kayla writes: In Nebraska we pride ourselves on being the equality state, yet there is currently no protection against discrimination in the workplace for my LGBT friends and family. I have recently learned that there is a bill, LB173, that would grant these protections and I am, therefore, asking your support on this bill. You do not have to understand nor support the LGBT community to realize that they, as humans, deserve the right to work hard and earn a living in the career that they choose. Who someone loves or the gender with which one identifies does not determine one's ability to do a job. The only factors that should be used to determine whether someone qualifies for a job are their education and experience in the field and their ability to complete the tasks assigned to them. So please support LB173 and help Nebraska truly be the equality state. I was thinking today, as Senator Pansing Brooks was talking about her son Taylor who, by the way, is one of the most upstanding young men I have the privilege of knowing, and I was thinking, can you imagine for a second going to work and being worried about even placing picture frames of your family in fear that that may cause you to be fired from your job? I can't imagine that at all. So I hope that the senators today, those who have not stood up and spoken in support of this legislation, will seriously consider supporting this. And I hope that before anybody chooses which way they're going to vote, that they reach out to some of the young people in their district and ask them what their thoughts are on this legislation, because ultimately the decisions we're making today are for their future. Thank you. [LB173]

PRESIDENT FOLEY: Thank you, Senator Wishart. Senator Geist. [LB173]

SENATOR GEIST: Thank you, Mr. President. I would ask the question, should the LGBT community be treated as second-class citizens? Answer: absolutely not, no one should. Everyone, every single person should be treated with dignity and respect. For me, this is not about judging others. It's not about whether...it's not about not loving others who may be different from me. Anyone who knows me at all knows that deep love, deep respect for every single person is a value that I live by. I do, however, believe it is the job of lawmakers to affirm

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and uphold constitutionally protected freedoms, to not pass laws that intentionally limit who may exercise constitutional freedom and fundamental rights and who may not. Tolerance is a two-way street. I support only those laws that don't pick and choose who gets freedom and who doesn't. I believe that LB173 threatens the freedom of those who have and live by their deeply held religious beliefs. Freedom is a fundamental American value which I believe is paramount to protect. Thankfully, in Nebraska businesses are free to decide the types of policies they'd like to adopt and the missions they seek to advance. Protecting freedom in the marketplace affirms respect for diverse views, builds community, and guarantees an array of choices for everyone. The government shouldn't be dictating to business owners whom they should hire, but should allow business owners to hire the best candidate for the job and for the mission of their particular business. Businesses have the right to be free to run their businesses according to their beliefs and to, thus, contribute to the diversity which is essential in any thriving marketplace. I oppose LB173 not because I oppose the human being, not because I don't have respect for people who may live differently and may choose to believe differently than I do. I support it because it does allow diversity. It does allow tolerance. And would curtail a robust, flourishing marketplace. Thank you, Mr. Speaker. [LB173]

PRESIDENT FOLEY: Thank you, Senator Geist. Senator Bolz. [LB173]

SENATOR BOLZ: Thank you, Mr. President. I respectfully argue that quite the opposite is true. In order to support a robust, flourishing marketplace, this bill is necessary. And I don't say that. The chambers say that. The Omaha Chamber, the Lincoln Chamber, and many of the businesses in Nebraska say that this is needed for economic growth. Clark Lauritzen, an Omaha banker and chairman of the Omaha Chamber, told a legislative committee in 2015: Talented employees want to work in an environment that is open, welcoming, and nondiscriminatory. At the chamber, we work every day to get more of these talented employees to move or to 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. Other businesses and business leaders include Jim Nolan, a spokesperson for Mutual of Omaha, who said the company is committed to equality of opportunity for all qualified people and our corporate policy prohibits discrimination on the basis of gender, gender identity, gender expression, and sexual orientation. Werner Enterprises, a large trucking company based in Omaha, provides equal employment

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opportunities without regard to gender identity or sexual orientation, claims Stefanie Christensen, the firm's vice president of human resources. First Data's employment policy ensures that we do not discriminate on the basis of race; color; religion; sex, including pregnancy, childbirth, or related medical conditions; gender, including gender nonconformity; age; disability; protected status; veteran status; marital status; sexual orientation; genetic information; or any other characteristic protected by law or regulation. Kim Hillyer, a spokesperson for T.D. Ameritrade, said that one of the firm's core values is that people matter. We want each of our employees to feel comfortable bringing his or her full self to work, Hillyer said. That means providing a welcoming employment environment that enables talented men and women of varying religions, ethnicities, sexual orientations to grow successful careers. So, colleagues, if you'd like to see a copy of this article, I've got one on my desk and I'd be happy to share with it you. Not only in Nebraska is this a corporate value and a value that people perceive as being good for economic growth. It's also something that we see nationwide. And we've also talked about the importance of competing in a national and global economy for the state. And the vast majority of Fortune 500 companies support equality policies. Companies that don't protect and support LGBT workers are currently out of step with corporate America. Of the Fortune 500 companies, 87 percent of businesses have established nondiscrimination policies that include sexual orientation and 56 percent include gender identity. That number increases as you climb the Fortune 500 ladder. Of the Fortune 100 companies, 93 percent include sexual orientation and 82 percent include gender identity in their corporate nondiscrimination policies. So, colleagues, I think that the case is here to be made that especially as we are trying to attract a more diverse and a more talented and a more mobile work force, we have to pay attention to how corporate culture and state culture impact our ability to thrive and grow. And unfortunately, the truth is that discrimination in the workplace does occur. Outlinc has provided for me a summary of some of the research and support that they've done on this subject over the last three or four years that was inspired by an ordinance discussion in the Lincoln area. And there are several stories about individuals who personally experienced discrimination based on their sexual orientation and gender identity. I will just read you a part of one from a woman named Shannon:... [LB173]

PRESIDENT FOLEY: One minute. [LB173]

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SENATOR BOLZ: ...I have personally experienced harassment and hostile work environments due to my sexual orientation, all the while knowing there is nothing in place to offer me any real protection. As a master's level social worker, I have dedicated both my education and career path to helping others and to making this community a better place. And she goes on to talk about how she thinks that these types of policies will promote and encourage new fair-minded businesses to make Lincoln their home. Colleagues, we not only need to grow in the business field. We need to attract workers, like social workers, like healthcare workers, all kinds of workers that we are falling short of in this state. And so from a business perspective, from an economic growth perspective, from a diversity and from a perspective of folks who...of someone who wants to embrace and employ all of the talent possible... [LB173]

PRESIDENT FOLEY: Time, Senator. [LB173]

SENATOR BOLZ: ...in Nebraska, I urge your support. Thank you, Mr. President. [LB173]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Craighead. [LB173]

SENATOR CRAIGHEAD: Thank you, Mr. Lieutenant Governor. Good morning, colleagues. I would like to know if Senator Morfeld would yield to some questions. [LB173]

PRESIDENT FOLEY: Senator Morfeld, would you yield, please? [LB173]

SENATOR MORFELD: I'd be happy to. [LB173]

SENATOR CRAIGHEAD: Thank you. LB173 defines sexual orientation and gender identity as actual or perceived, and this is in Section 20. What does "perceived" mean here? [LB173]

SENATOR MORFELD: Well, "perceived" means the definition...the dictionary definition of that which perceived is how one feels about themselves in terms of their gender or their identity. [LB173]

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SENATOR CRAIGHEAD: Okay. Whose perception is it? Is it the employer's, the job applicant's, or the employees'? [LB173]

SENATOR MORFELD: Well, it would be the employee, particularly if they're the one having the right to bring a discrimination claim. [LB173]

SENATOR CRAIGHEAD: Okay. And where does LB173 say that? [LB173]

SENATOR MORFELD: Well, that would be how the court would interpret it. Because when you file a discrimination claim, it would be the employee filing the discrimination claim because of an adverse action from the employer. [LB173]

SENATOR CRAIGHEAD: Okay. Now... [LB173]

SENATOR MORFELD: That's just the nature of our current framework. [LB173]

SENATOR CRAIGHEAD: Okay. Now to me that's a little bit vague. [LB173]

SENATOR MORFELD: I'd be happy to entertain an amendment from you. [LB173]

SENATOR CRAIGHEAD: Okay. And a Nebraska business owner will have to litigate this for sure and it will have to burn through a lot of aggregation in attorney fees to make the point. So I am thinking that if we can refine that and take away the vagueness of this, it would help the bill tremendously. [LB173]

SENATOR MORFELD: Certainly. [LB173]

SENATOR CRAIGHEAD: It's my understanding that sponsors of LB173 responded at the Judiciary Committee hearing that LB173 would apply only when LGBT individuals self-identify to such as employers. Is that correct? [LB173]

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SENATOR MORFELD: Not only. It...no, I don't think that's a correct interpretation of that, no. [LB173]

SENATOR CRAIGHEAD: Okay. Can you tell me where in the bill that that says that? [LB173]

SENATOR MORFELD: Can you repeat the question? [LB173]

SENATOR CRAIGHEAD: Of course. Certainly. Sponsors of LGBT LB173 responded at the Judiciary Committee hearing that LB173 would apply only when LGBT individuals self-identify to employers. I can't find that in the bill. [LB173]

SENATOR MORFELD: Well, I would have to...I don't have the bill right in front of me. It's off to the side with my legislative assistant, but I can get it out. I mean I know that it only does apply to that because it's under the Nebraska Fair Employment Act, which deals with discriminatory claims under the current accepted classes of people that are protected under. So this is a framework that's been in place since the 1960s, so it's under that framework. [LB173]

SENATOR CRAIGHEAD: Okay. I'm not an attorney. You are. [LB173]

SENATOR MORFELD: Uh-huh. [LB173]

SENATOR CRAIGHEAD: But courts will consider the plain language of LB173, not the oral interpretations to the contrary of this. One supporter also repeatedly claimed at the hearing that using the word "perceived" is somehow considered "best practice," a term which was also left undefined. Using a vague, undefined term could never be a best practice in legal drafting. And I guess my question would be I think we've got some vagueness in this bill that's going to cause a tremendous amount of problems down the road, and I would suggest that we go back and tighten up the bill. [LB173]

SENATOR MORFELD: Well, I would be happy to work with you on that, Senator, if that brings your support. I would also note that this language has not been found vague in several different

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federal court cases. These are well-litigated issues, and they have not found it's vague. So I'd be interested in hearing exactly who is the legal source of that opinion in that it's vague. [LB173]

SENATOR CRAIGHEAD: All right. It's Matt Heffron, attorney from Omaha. [LB173]

SENATOR MORFELD: Attorney from Omaha? Great. I'd be happy to talk to Matt Heffron and... [LB173]

SENATOR CRAIGHEAD: Okay. [LB173]

SENATOR MORFELD: ...and hear his opinion on why the other federal courts don't think it's vague. [LB173]

SENATOR CRAIGHEAD: Okay. Thank you so much for your questions. [LB173]

SENATOR MORFELD: Thank you. [LB173]

SENATOR CRAIGHEAD: And thank you, Mr. Lieutenant Governor. [LB173]

PRESIDENT FOLEY: Thank you, Senators Craighead and Senator Morfeld. (Visitors introduced.) Continuing debate, Senator Halloran. [LB173]

SENATOR HALLORAN: Thank you, Mr. President. Thank you, colleagues. Along the line of Senator Craighead's questioning, Senator Morfeld, would you yield to a question? [LB173]

PRESIDENT FOLEY: Senator Morfeld, would you yield, please? [LB173]

SENATOR MORFELD: (Microphone malfunction) Yes. [LB173]

SENATOR HALLORAN: If I understood you correctly, it's the perception or perceived sexuality orientation of the individual that is attempting to be hired by someone? [LB173]

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SENATOR MORFELD: Yes, that's how it is also in all the other classes that are currently protected. [LB173]

SENATOR HALLORAN: Well, some of those are visually very apparent. [LB173]

SENATOR MORFELD: But the court does not look at that. That's actually...the court looks at whether they're perceived. And that's...so that's the current way that the court interprets the other protected classes as well. This isn't new. [LB173]

SENATOR HALLORAN: What would be my perceived sexuality? [LB173]

SENATOR MORFELD: Well, I would perceive you as a male. [LB173]

SENATOR HALLORAN: You're wrong. [LB173]

SENATOR MORFELD: Okay. [LB173]

SENATOR HALLORAN: And so if I would have subscribed to employment opportunity at your nonprofit... [LB173]

SENATOR MORFELD: Uh-huh. [LB173]

SENATOR HALLORAN: ...and you turned me down for a sundry of probably very good reasons why I might not qualify for that job... [LB173]

SENATOR MORFELD: I would love for you to work at my nonprofit, Senator. [LB173]

SENATOR HALLORAN: I appreciate that. But say you turned me down for very legitimate reasons. [LB173]

SENATOR MORFELD: Okay. [LB173]

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SENATOR HALLORAN: And on that day that I was in seeking employment, my personal perception of my sexuality was something else, bisexual. Now...press here? This is a hypothetical. [LB173]

SENATOR MORFELD: They're everywhere. [LB173]

SENATOR HALLORAN: They're everywhere. But say my perception was that. So you didn't hire me, so I could subscribe to an attorney and pursue a discrimination suit against you. [LB173]

SENATOR MORFELD: Well, you could, Senator, but the problem is that that claim wouldn't go very far unless you made a statement saying I'm not hiring you because of X, Y, or Z, or if I sent a letter or something like that. There would have to be evidence of actual discrimination for you to make this claim. Right now anybody can file a frivolous lawsuit about, just about, anything. But in order for that claim to move forward, there has to be some evidence of discrimination based on that protected class. [LB173]

SENATOR HALLORAN: Thank you, Senator. What type of evidence would that be in this case? [LB173]

SENATOR MORFELD: Well, a statement from you, either verbal or a written statement, or something somebody else witnessed. [LB173]

SENATOR HALLORAN: So if I said nothing about my perception of my own personal sexuality, you would have no proof of my perception? [LB173]

SENATOR MORFELD: I would have no proof, nor would the court, so therefore that claim would not go very far. [LB173]

SENATOR HALLORAN: See, this is why I find it difficult how this is going to be litigated in the court. [LB173]

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SENATOR MORFELD: It's litigated as it currently is under all the other protected classes. It requires evidence of actual discrimination. If you do not provide that evidence, as an employer, you don't have a claim. Right now somebody can walk in and say that you fired me based on my race, but unless they can show evidence, the finder of fact, the court, is unable to move the claim forward and you would not be successful on the merits and facts. [LB173]

SENATOR HALLORAN: So our current equal opportunity law at the federal level includes sex as one of the criteria that employers should not discriminate upon. It seems...I don't know, it would appear to me that there's a bit of redundancy here. Sex, we can define sex any way we want to, and it's covered by the Equal Opportunity Act at the federal level. [LB173]

SENATOR MORFELD: Some courts, some courts on the federal level, district, and I believe...I haven't read the whole case get, the Seventh Circuit Court of Appeals out of Chicago have found that LGBT folks are protected under the Equal Opportunity Act on the federal level. So, yes, some courts have. The Eighth Circuit has not, nor has ours, which is the purpose of this bill. [LB173]

SENATOR HALLORAN: Lieutenant Governor, how much time do I have? [LB173]

PRESIDENT FOLEY: One minute, Senator. [LB173]

SENATOR HALLORAN: Thank you. Okay. So at the hearing, I made it clear that I have employed LGBT individuals in the restaurant business... [LB173]

SENATOR MORFELD: Yes. [LB173]

SENATOR HALLORAN: ...on numerous occasions. And quite...and I would have to say it was very apparent to me, it was not a perception problem. I understood that they...that they were gay. [LB173]

SENATOR MORFELD: Okay. [LB173]

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SENATOR HALLORAN: And I had no problem with that, and I hired them. But what if I had three applicants for a job for manager,... [LB173]

SENATOR MORFELD: Okay. [LB173]

SENATOR HALLORAN: ...and they were all, you know, two out of the three were pretty good,... [LB173]

SENATOR MORFELD: Okay. [LB173]

SENATOR HALLORAN: ...and the third one was clearly just not qualified? And so I finally end up with choosing one of the two,... [LB173]

SENATOR MORFELD: Okay. [LB173]

SENATOR HALLORAN: ...and later found out that the one that I didn't choose happened to be gay. [LB173]

SENATOR MORFELD: Okay. [LB173]

SENATOR HALLORAN: Again, I would not be liable? [LB173]

SENATOR MORFELD: You would not be liable unless you made a statement stating that you did not hire that person solely because they were not gay... [LB173]

SENATOR HALLORAN: Who would do that? [LB173]

SENATOR MORFELD: ...or because they were gay. [LB173]

SENATOR HALLORAN: Who would do that under any circumstances? [LB173]

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SENATOR MORFELD: Well, people do it. People do it, Senator, and we've had people out in that Rotunda that have had job offers... [LB173]

PRESIDENT FOLEY: Time, Senators. Time, Senators. [LB173]

SENATOR MORFELD: Thank you very much. [LB173]

SENATOR HALLORAN: Thank you. [LB173]

PRESIDENT FOLEY: Thank you, Senators Halloran and Senator Morfeld. Senator Morfeld, you may continue. [LB173]

SENATOR MORFELD: Oh, thank you, Mr. President. You know, Senator Halloran brings up some great points, but they're points that, quite frankly, only lean in favor of passing this bill. First, on the federal level, some courts have found that this is covered under the current federal law in the definition of sex, and that's fine. That's great. That has not been found in this jurisdiction, which is why it's important that we as a state move forward so that both we have equal protection rights as guaranteed under our constitution and that they are lived through, through our laws that we pass, and second, I don't think we can wait five or six or seven or eight or nine or ten years or however long it will take for this to go through the courts and bet on the courts may or may not find that this falls under our current category of sex. That's why the Lincoln and Omaha Chambers of Commerce support this legislation. That's why so many big and large companies in this state support this legislation, because some of them may have nondiscrimination policies already, and many do. But when they're trying to recruit people to this state, those people are looking for states that have laws that protect who they are, and not only that, they're looking to the state as I might be bringing a partner, and they may not be applying to the same business as I am that has these types of policies. And it's important that we have a state and an environment that protects these types of rights. And the bottom line is, colleagues, I'm an employer, too. I've been in situations where I've had to let people go. It's the worst part of my job. It is the worst part of my job. It's the one part of my job that often keeps me up at night when we're looking at letting an employee go. I know how serious of a situation that is. But the bottom line is anybody right now can bring a frivolous claim against...discrimination claim against me

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on the other six or seven other protected classes, but they have to show evidence. They have to show proof that the reason why I let them go or didn't hire them is simply for...because of that protected class. You can't just file a claim and then it's all of a sudden successful. There's got to be proof. That's why we have finders of fact called the court and evidence that's required. The other thing that I'd like to know was, I was listening to Senator Geist's statement about why she's opposed to LB173, and this does not violate any religious liberties. I know there's a bunch of people out there and a bunch of e-mails going around saying it does, but we have always been able to regulate business under the Commerce Clause, and we do that currently with our protected classes. And in fact it's interesting, going back to the 1950s and '60s with some of the arguments, the same arguments being made against this bill, the religious freedom and conscience argument, those same arguments were made against making it so that black folks couldn't be protected as well in the workplace. These are the same arguments. And protecting black folks in the workplace didn't violate anybody's religious freedom, despite some claims to the contrary. It didn't cause people to go out of business. In fact, it opened up businesses in many cases, which is why government regulates interstate commerce besides sometimes protecting fundamental constitutional and civil rights. The other thing, too, is that, yes, we have a religious conscience clause or a religious freedom clause, I should say, in our state constitution, but those religious freedoms have always been found to be protecting the individual's religious freedoms, not the individual's rights to infringe upon other people's freedoms and other people's ability to avail themselves of the marketplace and be a person, a person who can be employed,... [LB173]

PRESIDENT FOLEY: One minute. [LB173]

SENATOR MORFELD: ...a person who can buy things, a person who can be themselves. So when you look at the religious freedom clauses in our constitution, they have always been interpreted, always been interpreted as protecting the individual freedoms of that individual, not interpreted as giving somebody a right, an individual the right to infringe upon other people's freedoms. And that's what firing somebody solely for being gay or LGBT is. It is taking your individual right and saying, I can force that and impose it on you. Religious freedoms protect the individual's religious freedom, not necessarily the imposition of that religious freedom on other people. It's an important distinction, and I hope it's one that we all think about. [LB173]

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PRESIDENT FOLEY: Time, Senator. [LB173]

SENATOR MORFELD: Thank you, Mr. President. [LB173]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Hansen. Senator Hansen, I apologize. I think I made a mistake here. It's actually Senator McCollister's turn. Apologize. [LB173]

SENATOR MCCOLLISTER: Thank you, Mr. Lieutenant Governor. Good morning, colleagues. It's deja vu all over again. The debate for LB173 is very similar to LB586 from last year. I think I'm in another time warp. Any rate, as we've heard that many people have personal religious convictions relating to this bill, you may not remember but Heartland for Clergy for Inclusion...Heartland Clergy for Inclusion had a statement on LB586 last year. Let me read the first two paragraphs in that proclamation, the Heartland Proclamation: As Christian clergy, we proclaim the good news concerning lesbian, gay, bisexual, and transgender LGBT persons and publicly apologize where we have been silent. As disciples of Jesus, who assures us that the truth sets us free, we recognize the debate is over. The debate is over. The verdict is in. Homosexuality is not a sickness, not a choice, and not a sin. We find no rational or biblical theological basis to condemn or deny the rights of any person based on sexual orientation. Silence by many has allowed political and religious rhetoric to monopolize public perception, creating the impression that there is only one Christian perspective on this issue. Yet we recognize and celebrate we are far from alone, as Christians, in affirming LGBT persons as distinctive, holy, and precious gifts to all who struggle to become the family of God. In repentance and obedience to the Holy Spirit, we stand in solidarity to all those who are committed to work and pray in full acceptance and inclusion of LGBT persons in our churches in our world...and in our world. We lament the LGBT persons are condemned and excluded by individuals and institutions, political and religious, who claim to be speaking the truth of Christian teaching. This leads directly and indirectly to intolerance, discrimination, suffering, and even death. The Holy Spirit compels us to affirm that the essence of Christian life is not focused on sexual orientation but how one lives in grace, in relationship to God, in compassion toward humanity. Once again, that's the Heartland Proclamation, and I will send out a copy to all of you here. Secondly, I'd like to read a copy of an editorial that appeared in the World-Herald on May 12, 2015. It's titled, "Nebraska needs

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safeguards on workplace discrimination": Nebraskans value hard work. But Nebraska law doesn't yet protect people from workplace discrimination based on sexual orientation or gender identity. LB586 would change that. Once again, that's the bill from last year. Passing the bill and extending equal protections to all would make it easier for Nebraska businesses to find needed employees and demonstrate Nebraska is a welcoming place. Both are important because Nebraska businesses must hire and compete nationally, even globally. The current lack of legal protection hurts Nebraska business ability to attract and retain talented workers. No state with... [LB173]

PRESIDENT FOLEY: One minute. [LB173]

SENATOR McCOLLISTER: ...2.6 percent employment (sic--unemployment) rate can afford to turn its backs on a political (sic--potential) pool of talented workers. It's bad for business. The lack of protection keeps many Nebraskans and would-be Nebraskans from realizing their potential. Too often they move elsewhere. Critics of LB586 argue that such law runs the risk of tying up the court systems. Nebraska's experience in Exhibit A indicates that won't happen. Omaha is one of the 225 U.S. cities and counties that have enacted their own workplace protections. Its ordinance was adopted in 2012. As of this week, Omaha officials say that only ten people have filed complaints under the city's antidiscrimination ordinance, and no violations have been found. [LB173]

PRESIDENT FOLEY: Time, Senator. [LB173]

SENATOR McCOLLISTER: Thank you, Mr. President. [LB173]

PRESIDENT FOLEY: Thank you, Senator McCollister. Senator Howard. [LB173]

SENATOR HOWARD: Thank you, Mr. President. I rise in support of LB173. And I want to talk for a minute...I want to talk for a minute about millennials, because we actually have the highest percentage of millennial legislators in the country, which is so interesting to me, because we're one of the states that's hit hardest by the brain drain. When I graduated from high school, I could not leave Nebraska fast enough, right? I was like a cartoon character with the dust behind them

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because I was so excited to leave Nebraska. There was nothing going on here. There was nothing here for young people. And conversely, when I left Chicago, I was like a cartoon character coming back to Omaha because I realized what a great place it is to live and work. Now, mind you, I have family here, and that was a huge reason for me coming home. But it was also because Nebraska, and Omaha in particular, have changed. They're not what they used to be. It used to be sort of a sleepy town, or at least it felt like a sleepy town when I used to live there, and now it feels like this really vibrant, welcoming, inclusive place to live and to grow and to someday raise a family. I think my cats are very happy there as well. So what I've been hearing from my constituents is that LB173 and specifically Daniel Lawse who lives in Gifford Park told me to vote for this bill because he feels as though it honors the humanity of everyone and that it makes Nebraska a better place for everyone to live. And that's what I want to see and that's the Nebraska that I want to live in. Now, granted, I live in Omaha, which is, as I'm persistently reminded, very different from the rest of the state. Senator Lowe is looking at me. It is very different from the rest of the state. I, of all of us, try to spend as much time as I can in western Nebraska over the summers to really understand that I don't just represent my district. I represent the whole state. And so if that means getting a Bieroc in McCook or going and staying at the Drifter Cookshack up in Crawford, that's what I'm going to do to understand that I don't just represent my 37,000 folks. I represent the whole state. And so when I think of LB173, it doesn't seem fair that in Omaha there are folks who have this protection. And I look at Senator Hilgers, because his bill about gun laws was just the other day and I didn't speak on that because I do appreciate that there are some things that should be statewide initiatives, and there are some things that should be very local and very focused on the grass roots. I think a little bit, too, we had some really great bills this year about military spouses and licensure. Senator Erdman brought one. Senator Blood brought one. And for both of their hearings I asked a question that was inspired by Senator Chambers. I sit on Business and Labor with him and he always asks the question, does this protection reach to homosexual couples? So if there's a military spouse who's coming, is it your intention that this will reach to a gay couple? And both Senator Erdman and Senator Blood were very candid and said, you know, if they're married, they're married and this privilege extends to them. I want that to be the norm for our Legislature. I want that to be the expectation, that a privilege that we grant or a protection extends to everyone equally. I think LB173 gets us a few steps closer to that, not to mention the fact that businesses love it, or at least businesses in Omaha. I trust the chamber when they tell me that they represent the voice of

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Nebraska businesses, because they often do that better than I can consider. And so in that regard, I stand up for LB173. [LB173]

PRESIDENT FOLEY: One minute. [LB173]

SENATOR HOWARD: I stand up for the individuals who are homosexual, who are some of my best friends and some of my favorite people, because I think this is, you know, maybe it doesn't do everything, but it signifies that we're a state that welcomes all people. And that's, I think, the state that we want to live in and that we want to attract young people to come back to when they leave like cartoon characters. So with that, thank you, Mr. President. [LB173]

PRESIDENT FOLEY: Thank you, Senator Howard. Senator Pansing Brooks. [LB173]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. I'm so torn whether to speak to you from my heart or whether to talk to you about the laws. Of course in my role as a mother, that's, to me, one of my most sacred blessings that I've ever had in my life, is to have those three beautiful children that I have. And what I learn from them is about unconditional love. I learned about the infinite nature of love, how you can have one child, love him more than anyone else in the world, and when we had our second child, when I was pregnant, I thought I don't know if I could ever love anybody as much again. And that's what I learned. I could! That's the miracle of love. Love is not finite. And what's the greatest commandment? To love our neighbors as ourselves, to love God with all of our heart, soul, and mind. But of course that neighbor, if they're LGBT, we don't really mean that. Senator Halloran mentioned about, well, how am I going to know about whether or not they're gay or whatever, whatever he was talking about. With the classifications we have--race, color, religion--now that religion is covered as a classification with protections, oh, all bets are off. The Catholics were terribly discriminated against, terribly discriminated against. And the Civil Rights Act came forward and said no longer; you can no longer discriminate against Catholics. Well, wow! Now that they have those protections, here we go. We get to do whatever we dang well want about whomever we don't think fits within our determination of what is holy and what is without sin. That, my friends, is sin in itself. National origin; age, 40 and over; sex; pregnancy; citizenship; family status; Title VII says you can't discriminate against housing if you have children, except for senior housing;

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disability; veteran status; genetic info. But LGBT? Oh, my gosh, that's just too many classifications. We are done with protecting people. We don't care that they're saying they need protection; we're done. We've set up the classifications. Senator Geist said every person should be treated with respect and dignity. She has deep love and respect for all people. And then there was the crashing word "but," "but," and that, of course, negates everything she just said before: But, oh, the businesses. Yes, businesses trump people. Oh, but how will people know? They've got deeply held religious beliefs. I want to read to you what is the scope of Title VII prohibition on disparate treatment based on religion. Employers may not refuse to recruit, hire, or promote individuals of a certain religion. Oh, this stupid computer. Sorry, it just went off now that I'm doing this. All sorts of protections for religion are in Title VII. That's why we created the classification. That's why we... [LB173]

PRESIDENT FOLEY: One minute. [LB173]

SENATOR PANSING BROOKS: ...made sure that people were protected. So I won't get to that right now. We're talking about people. We're not talking about if somebody comes in and tells all your clients, I'm gay and so, you know, buy our widgets. We're talking about people and their competency, and after hours they love someone that you don't necessarily agree with. People are getting fired for this. We need people to work. Our number one issue of the State Chamber is recruitment and job force. But, boy, if you got somebody competent and they happen to be in love with somebody with whom you disagree, boy, I didn't know it was all about you. Okay, we're not going to protect them. I'm sorry, it's so aggravating because... [LB173]

PRESIDENT FOLEY: Time, Senator. [LB173]

SENATOR PANSING BROOKS: ...because it's aggravating. Thank you, Mr. Lieutenant Governor. [LB173]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Hilgers. [LB173]

SENATOR HILGERS: Thank you, Mr. President. Good morning, colleagues. I was wondering if Senator Morfeld would yield to a question or two. [LB173]

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PRESIDENT FOLEY: Senator Morfeld, would you yield, please? [LB173]

SENATOR MORFELD: Be happy to yield to a question from my neighbor from the west.  
[LB173]

SENATOR HILGERS: Thank you. The "Fighting" north, 46 and 21. Thank you, Senator Morfeld. Do you have a version of the bill in front of you? [LB173]

SENATOR MORFELD: Have the bill in front of me, Senator Hilgers. [LB173]

SENATOR HILGERS: Excellent. Well, I wanted to ask you a couple of questions if I might about some of the language. As I read through it, Senator Morfeld, there are a number of instances, essentially what the bill does is it inserts the phrase "sexual orientation" and "gender identity" throughout a number of chapters in state statute. Does that sound right to you? [LB173]

SENATOR MORFELD: Correct. [LB173]

SENATOR HILGERS: And then it ties that...those classifications to certain prohibitions. So, for instance, private firms cannot fire people based on that particular classification, correct? [LB173]

SENATOR MORFELD: Correct. [LB173]

SENATOR HILGERS: So the definition of those words help know what is prohibited and what is not prohibited. Is that right? [LB173]

SENATOR MORFELD: Are you talking about the private firms or the actual prohibited discrimination or classes? [LB173]

SENATOR HILGERS: Good question. Of the prohibited...the classifications. [LB173]

SENATOR MORFELD: Correct, classifications. Correct. [LB173]

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SENATOR HILGERS: Thank you. So if you wouldn't mind turning to page 26, lines 21 and 22. [LB173]

SENATOR MORFELD: I'm there. [LB173]

SENATOR HILGERS: So that's the definition of sexual orientation, and it means actual or perceived homosexuality, heterosexuality, or bisexuality. And you had the conversation with Senator Craighead question earlier about the definition of perceived, so I won't go into that. But that's a fairly precise definition outside of the word "perceived," which there's been some discussion. So if you wouldn't mind turning to page 25. [LB173]

SENATOR MORFELD: I'm there. [LB173]

SENATOR HILGERS: Lines 20 through 23 is the definition of gender identity. And I'm going to focus on...there's two clauses to this definition. The first one says, "shall mean the actual or perceived appearance, expression, identity, or behavior of an individual." And then the second clause says, "whether or not that appearance, expression, identity, or behavior is different from the individual's assigned sex at birth." Did I read that right? [LB173]

SENATOR MORFELD: That's correct. [LB173]

SENATOR HILGERS: So if you wouldn't mind just walking through the first clause with me, it says, "shall mean the actual or perceived appearance." If we just stop there, "shall mean the actual or perceived appearance," that actual appearance or perceived appearance could be any number of things. It's not limited so it could be if someone looked a little out of sorts of disheveled or overweight or any other number of things. Is that right? [LB173]

SENATOR MORFELD: Well, in this case, I mean are you talking about the definition of actual or perceived, or are you talking about the definition in relation to the actual characteristics that are listed after that? [LB173]

SENATOR HILGERS: Well, I just want to start with actual appearance. [LB173]

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SENATOR MORFELD: Yeah, actual is me looking at Senator Halloran and perceiving that he's a male. [LB173]

SENATOR HILGERS: But it all...but the language says...it doesn't say the actual...it doesn't say actual appearance of gender. It says actual appearance. So it doesn't limit it to anything specific to gender. And I...there may be other suggestions at other parts in the statute, but I just want to focus... [LB173]

SENATOR MORFELD: Yeah. [LB173]

SENATOR HILGERS: ...right on line 20. It just says "actual appearance." [LB173]

SENATOR MORFELD: Okay. [LB173]

SENATOR HILGERS: And that could mean something beyond gender. It could mean, as I said, someone is overweight, someone had the appearance of looking stressed or unfriendly or anxious. Is that right? Would you agree? [LB173]

SENATOR MORFELD: Well, if you're asking a question of statutory interpretation, the court would not just interpret those words separate from the other words in the same sentence. So if you're just saying that this would create a whole nother class of just actual or perceived without taking into the context gender, expression, identity, or behavior, no. [LB173]

SENATOR HILGERS: Senator Morfeld, on my time, I just want to walk you through this language. I want to start with the... [LB173]

SENATOR MORFELD: But you're asking me a question... [LB173]

SENATOR HILGERS: No. [LB173]

SENATOR MORFELD: ...so I'm answering the question. [LB173]

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SENATOR HILGERS: No, no, no. My question is just this particular language. You may, on your time, you might explain how you see it differently. But I just want to focus on the language. [LB173]

PRESIDENT FOLEY: One minute. [LB173]

SENATOR MORFELD: Okay. [LB173]

SENATOR HILGERS: Expression, identity...colleagues, I'm running out of time, but the point I'm making is what will happen with this language, I think what we're doing here is we would allow someone to file a lawsuit. If we're going to do that, we ought to be very particular and careful about the language that we use. And the language here says, "shall mean the actual or perceived appearance, expression, identity, or behavior of an individual." That's how it's defined. Now there's a second clause that says, "whether or not," but that could say whether or not the sky is blue, whether or not it's Monday. Whether or not means whether or not, it does not matter. What matters is the language. And so what would happen is if we didn't have this definition that said gender identity, a court could say, well, okay, the Legislature decided it should be tied to gender identity. But when we define it and we define it in ways that are explicitly unmoored to gender identity, then it broadens the scope. And so if we're going to allow someone the power to file a lawsuit and to make a claim, I think we ought to be very precise and clear about the language that we use. And in my view... [LB173]

PRESIDENT FOLEY: Time, Senator. [LB173]

SENATOR HILGERS: Thank you, Mr. President. [LB173]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Crawford. [LB173]

SENATOR CRAWFORD: Thank you, Mr. Lieutenant Governor. And good morning again, colleagues. This summer...I rise in support of LB173 and AM958. Colleagues, this summer many of you attended the Governor's Economic Development Summit, and I was there as well. I think it was an important chance to get together with leaders and our businesses across the state

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to talk about what we need to do to grow Nebraska. And a major theme in that...at that summit was a theme we've heard over and over and over again, and that is the challenge of work force in Nebraska. And, colleagues, that's a key reason that the Greater Omaha Chamber supports this bill. When I was at the Governor's Summit, I was very struck by the presentation from the Greater Omaha Chamber on talent, strategy, and reality. And let me just point out a few points that they made at the Governor's Economic Development Summit about what we need to do as a state in terms of thinking about work force recruitment. And one of their key...a key area of focus is our young professionals and they reported in their presentation that 4,000 bachelor degrees left the state of Nebraska between 2000 and 2010, talked about the fact that talent is most likely to move out of our state at high school graduation and college graduation. And, colleagues, that's a key reason that I am glad that Senator Wishart encouraged you to talk to the young professionals in your district and talk to them about what they care about in terms of the state. But we don't have to wonder what young professionals care about. The Greater Omaha Chamber of Commerce has surveyed these young professionals in our state, and, colleagues, the young professionals think welcoming community is a number one, a number one priority in a place to live. Colleagues, our laws speak about who we are and what we value. And I know there have been some concerns about whether or not this would cause a rash of lawsuits, and one of the great features of our government system in the United States is that we have many levels of government, and that allows some governments to experiment and try policies that we can learn from. And so it is the case, as you have on your desks, the city of Omaha has passed an ordinance with very similar language. And they have not seen a rash of frivolous lawsuits. And as Senator Morfeld noted, you have to have evidence to have a case. So while there might have been a concern, we now have experience in our state to illustrate that that concern is not of merit, that we will not see a rash of lawsuits if we pass this bill. We would not expect to see that. We have not seen that in the case of Omaha. So now then you might say, well, if we haven't had a rash of lawsuits, is it the case that we really need this protection? And we've had many stories of the people who have come forward to talk about their experiences to demonstrate anecdotally that it is critically important in terms of protecting employment. But, colleagues, LB173, this law is also important in what it says about who we are and what we value, and that's why it matters in terms of recruiting and keeping our young professionals here. Even if they don't think they personally will be discriminated against... [LB173]

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PRESIDENT FOLEY: One minute. [LB173]

SENATOR CRAWFORD: Thank you, Mr. President...they care about living in a state that is intentional in saying that we value diversity. Young professionals think welcoming community is a number one priority in a place to live. Colleagues, other people, businesses, they look at our laws in terms of what they say about who we are and what we value, and if you don't think that's true, ask some businesses in North Carolina. Thank you, Mr. President. [LB173]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Chambers. [LB173]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, what we're talking about is different from all the other matters we deal with along this line because we're not dealing with civil rights now. We're dealing with human rights. That's why we need a statewide policy established. Now, if you say that our LGBT brothers and sisters are not entitled to this protection and that this kind of legislation gives unfair advantage to some and not others, let's abolish all classes, let's wipe out all of these laws, stop these religious hypocrites from saying that they cannot be discriminated against because of their religion. Somebody else mentioned the Catholics were discriminated against, and I have to take the word for what people say. And now that they're not discriminated against, they say, thank God, now we can discriminate against others. The very thing they found reprehensible and repugnant is the very thing they insist on having the right to do. Thank God or whoever might be in charge of things. The Popes did not discriminate when they wanted work done by a homosexual or you wouldn't have the Sistine Chapel ceiling, because that's what Michelangelo was. And he did a lot of statutory and other things. So that's why I attack the church and the church takes this position against these people. And I don't care what anybody says that makes me. I'm going to deal with the wrongdoers whatever cloak they wear. When I hear somebody talk in quiet, measured tones like Senator Geist and they talk about how they believe in respect for everybody and treating everybody with humanity, I'm ready for them to say, "but these other people, they don't fit in that, they don't count." So I say let there be freedom and justice for everybody, or freedom and justice for nobody. Senator Pansing Brooks had mentioned that religious people can get their rights, and then they want to determine what is right and what is holy. She gave them too much credit. They want to determine who is human. That's what they're saying: Some people are not entitled to be

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treated like human beings. And every time they have some hypocritical preacher up there--and I'd say they all are, they don't speak out for those who, like Jesus, was scorned, a man of sorrow, acquainted with grief. When they apply that to Jesus, Christians choke up. Yet, they are imposing those very burdens on their brothers and sisters. Are you your brother's keeper? Are you your sister's keeper? That's why I say religion is a bunch of hogwash. What becomes of the Golden Rule, while I'm on religion: As you would that men do unto you, do ye also to them likewise? I know how Catholics want to be treated because they yammer about it all the time, and they've got more power than any other single religion. They've had a Catholic President. The king of the religious world to some people is a Catholic--the Pope. Then they say they are persecuted, and they're the persecutors. They're the people who burned people at the stake. And now they're going to cry about all these horrible things that are happening to them, and they don't even have the decency to treat human beings like human beings. You often hear the term "all people." But then these religious people want to parse the word "people." That word "people" does not embrace all human beings, except when some hypocritical preacher, whether it be Pope, priest, reverend, it doesn't mean all people. So here's somebody who is gay coming up to Judgment Day, and God says, get away from me, get away from me! And then that person is shocked and say, but, God, it's you who made me, not me myself. That's what the Bible said. It is He who made us, not we ourselves. So that person gives to God what God put in his word. You made me. Then God says, oh, well, oops, the joke is on me; I made a mistake. You all who claim to be religious ought to know the contempt that people who are not religious have for you and what you say you believe. The time to put something to the test is when the circumstances exist where what you are should come forth, and all I hear is the hatred. I hear the contempt. And what Senator Geist read others are reading from because others got the same words. That's what I mean by the hypocrisy. They get up here and try to sound all sanctimonious; they care about people. [LB173]

PRESIDENT FOLEY: Time, Senator. [LB173]

SENATOR CHAMBERS: You said time? [LB173]

PRESIDENT FOLEY: Yes, sir. [LB173]

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SENATOR CHAMBERS: Others are probably saying hallelujah. Thank you, Mr. President.  
[LB173]

PRESIDENT FOLEY: Thank you, Senator Chambers. (Visitors introduced.) Continuing debate,  
Senator Kolowski. [LB173]

SENATOR KOLOWSKI: Good morning, Senators. Good morning, Mr. President. Thank you very much. I want to read you what I'm writing back to a number of constituents that have asked me about this particular bill. I stand in support of LB173, and this is the message that I'm sending out. And by the way, I would have sent...did send and have sent the message prior to my reelection, so it's not just something that you use when you're running for or worried about your next election. Dear, fill in the name: I want to thank you for your recent letter where you have stated your opposition to LB173. My own position on LB173 is based on my life experiences as a 41-year public educator, as a person who has served in our military, and now as an elected official who serves in our Nebraska Legislature. My support for LB173 is also backed by the city of Omaha, the Omaha mayor, the Omaha Chamber of Commerce, and the Lincoln Chamber of Commerce. If we desire to grow Nebraska, to build an inclusive economy and society, then we should support LB173 to provide for the safety and security of all future citizens in Nebraska. Our goal is to grow Nebraska to be one of the best states to live in and grow in nationwide. Sincerely, Senator Rick Kolowski. You're getting something that's being passed around now that's from the Omaha Chamber of Commerce. I hope you have a chance to read that and also understand where that...where they're coming from with their statement and how important that is for our state, for our city, and hopefully for our country. I give the rest of my time to Senator Morfeld. Thank you. [LB173]

PRESIDENT FOLEY: Thank you, Senator Kolowski. Senator Morfeld, 2:45. [LB173]

SENATOR MORFELD: Thank you, Mr. President. Colleagues, I want to talk about a few different things, particularly our conversation with Senator Hilgers. This language is language that's commonly used in other antidiscrimination measures and language, so I think that has been tested in many different cities and municipalities, not only that, our very own city of Omaha. City of Omaha has a very similar definition. It also talks about perception. And in all of the other

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classes, as I noted with Senator Halloran, we use the term "perception" because it is that perceived disability or the perceived race or the perceived nationality that we base the person bringing the discrimination claim. And that's common in terms of religion--there's many cases, I can read them off; I won't--political activity, disability, race, national origin. This is commonly...this is a common practice to base it off the employee's perception. And the bottom line is, yeah, if we're giving people a right, Senator Hilgers stated, we're giving people the right to file a lawsuit, we're not giving anybody...people can already file lawsuits. I mean this isn't something new, being able to file a lawsuit based on a discrimination claim. People do that already. Some of them are frivolous; some of them are not. That's why we have a finder of fact. That's why there has to be evidence, evidence of actual discrimination. So these aren't easy claims. There has to be some kind of evidence. But that's currently the case under the other protected classes: race, national origin, sex. And it's always based on the perception. And part of it, too, is that it's based on the employee's perception because the employer shouldn't be worried about the perception. The employer should be worried about whether the employee is doing their job right or not. If the employee is doing their job right, no big deal. The employer shouldn't have anything to worry about. That's why we base it on the employee's perception, is because it's based on whether or not they are perceived to be within a protected class, whether that be race, national origin, religion. Religion is something that we choose. Marital status is something that we choose and it's a protected class. So the folks that come out...maybe some people in this body believe that being gay is a choice. That's fine. We already protect other classes that are a choice, like marital status. That's a choice, last time I checked it was anyway. Marital status, religion, religion is a choice. I have many friends that have changed religions before. That's a choice. We protect that status. Senator Pansing Brooks behind me is whispering pregnancy. That's a choice as well. [LB173]

PRESIDENT FOLEY: Time, Senator. [LB173]

SENATOR MORFELD: That is also something that's protected. Thank you, Mr. President. [LB173]

PRESIDENT FOLEY: Thank you, Senator Morfeld. (Visitors introduced.) Senator Hansen. [LB173]

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SENATOR HANSEN: Thank you, Mr. President. Colleagues, I appreciate the discussion this morning. I rise in continued support of LB173 and AM958. Having sat through the hearing this year in Judiciary Committee, I wanted to comment and just say some of the things that are being addressed as maybe concerns of the bill or concerns about how this bill would indirectly interact, a lot of those were actually brought up by testifiers in support of the bill. I say that in the sense of at one point in time there was kind of a question of like, oh, who would ever be so explicit as to fire someone for being gay. Like who would ever do that? I wish I kept a tally. I should have kept a tally, but that was explicitly alleged by multiple testifiers at our committee hearing this year. I know other testifiers in past years have certainly made similar claims. Obviously, I...you know, so it happens or at least it's being alleged to happen. And I, in talking with some of these individuals and seeing some interactions in my lifetime, I certainly believe that it does happen. It does happen and it was explicitly alleged by some of the supporters in Judiciary Committee. So if the question is, oh, this would never happen or this would never come up, there are citizens in our state who have had this happen to them, who have had people be that explicit. Other options we're moving forward were kind of again with the issues of perceived or the issues of what if I was...decided to be bisexual just the day I got fired or something of that nature? Hypotheticals like that, I know, both came up briefly this morning and then were certainly in debate on LB586 in prior years. I'm glad Senator Morfeld pointed out all the other protected classes that are choices and protected classes that are not based on inherent factors. Obviously, one going to an issue on this, you would have to kind of prove the overall situation, prove the (inaudible). And so if somebody was bisexual only the day they got fired, that would be same as saying you were Catholic only the day you got fired. And you know, that's not something that a...that's something that the finder of fact can look at and seriously question the legitimacy of. That's something that, you know, if we're worried about that, I just don't think that's...that's a concern that's going to come into practice. I understand why it's a concern, but I don't think it's a concern that's going to come into practice. Finally, I mean, we're talking about just opening causes of actions and what about the frivolous lawsuits and whatnot. You know, I do appreciate that's a concern. I appreciate that's a concern on a lot of bills, on a lot of issues. But we do have court systems. There are, regardless of whether we pass this statute right now, if you have an ax to grind with your employer and you want to make them burdensome attorneys' fees, that's an option that already exists in statute. What doesn't exist in statute is you actually prevailing on a legitimate claim of discrimination against sexual orientation and gender identity. If you want to just make your ex-

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employer's life miserable, you can allege all sorts of things in a frivolous lawsuit. Make them get an attorney and do that. You can do that now. What you can't do is actually win on a legitimate claim of discrimination on sexual orientation, of gender identity. Somebody could look you in the eye and say, I'm firing you because I don't want a gay person working here. Boom. No chance of winning. Same chance of if you...same chance of just being a vexatious litigant, either way, if you have no real claim. So I appreciate that people are concerned. I appreciate people are concerned about a court's time, about employers' time, about just a lot of these issues. But we have to remind ourselves that options exist today to weed out illegitimate claims, to weed out illegitimate lawsuits, to weed out illegitimate findings. We have those today... [LB173]

PRESIDENT FOLEY: One minute. [LB173]

SENATOR HANSEN: ...and no prohibition on that. What we don't have today, what's missing right now is the opportunity for a legitimate person who is actually discriminated against. And maybe they have very good evidence. Maybe they...someone was sloppy enough to put it in writing. They are currently prohibited from actually prevailing. In all of the scheme of lawsuits, the only one that can't happen today is a winning lawsuit for a rightful claim. And that's why I think we need to adopt LB173. Thank you, Mr. President. [LB173]

PRESIDENT FOLEY: Thank you, Senator Hansen. Mr. Clerk, are there any items for the record? [LB173]

ASSISTANT CLERK: Mr. President, thank you. There are. Have a notice of committee hearing from the Health and Human Services Committee; amendments to be printed to LB276 from Senator Brasch, and LB300 from Senator Krist. That's all I have. (Legislative Journal pages 953-954.) [LB276 LB300]

PRESIDENT FOLEY: Thank you, Mr. Clerk. (Visitors introduced.) Continuing debate, Senator Vargas. [LB173]

SENATOR VARGAS: Thank you very much, Lieutenant Governor. Colleagues, I'm thankful we've been having this conversation. I think it's extremely healthy for us to make sure that we are

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expressing our points of views and making sure we represent our constituencies. And I think we were all elected because we stand by the power of this body to pass statutes and laws and are doing everything we can to make lives of Nebraskans better, in any way, shape, or form. That's what we've been doing. I believe that's why we were elected. For some of us, this is making sure we're passing property taxes relief. For some of us it's improving the education system. For some of us it's making sure healthcare is better, making sure more individuals have support in the workplace. And for this issue I am...continue to be...continue to be open to the idea that we...this dialogue is leading us to the fact that people in the workplace are continuing to place different injustices and discrimination. And that is what we've heard in the past. That's what we've heard in the hearings. So that's why I'm in support of this bill because--and again, I mentioned this earlier--we do have other protected classes that are not necessarily choices, and these other protected classes, we are doing everything we can to make sure under our current Nebraska statutes that they are protected. I think we are doing that because we're trying to stand by all Nebraskans. I myself did campaign on making sure we had a more inclusive and safe Nebraska, and that meant making sure we're supporting people no matter any piece of their identity, including race, ethnicity, religion, sexual orientation, and otherwise. And the reason why I did that is because I am extremely proud to be a member of this body and a resident of this state. I think it's fantastic that we have so many things going for us as a state, and I want to continue to have that progress. And so there's that economic argument that we need to continue to make sure we're closing this talent gap, make sure we're continuing to create inclusive workplaces across the state where people are coming to us saying we want to stay here because we know that our state is standing by us. And that's a really critical piece. And then furthermore, we're looking at the economic argument of making sure that not only are we keeping people, we're keeping families, individuals that want to start their lives here. Or if they're deciding that they want to leave because of something that's a piece of their identity, we're losing them. We've had similar arguments with, let's say, for DACA, for an individual that, against any issues on their own, they've been here their entire lives and they identify as Nebraskans, and they love this country, they love this state, they want to contribute to our state and our communities, they want to start businesses. And we've stood by them in the past, particularly because we believe it is important for us economically to support this youth, these youth, and then also make sure that we are improving the economic opportunities that they're going to provide in our state. I feel like there's a similar thread here, where we're doing everything we can to make sure that they're a group of

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people that are not being discriminated against and are not going down a pathway where they would consider Nebraska isn't a place that makes me feel and makes sure that we are protected and we are inclusive of a piece of their identity. And so I want to make sure that we are clarifying that because I think that that is one of the issues we're facing. This is not an issue of somebody is accepting of one person's lifestyle or not, and that we have our own opinions and judgments. [LB173]

PRESIDENT FOLEY: One minute. [LB173]

SENATOR VARGAS: This is an issue about whether or not we're standing by and supporting economic opportunity, whether or not we as Nebraskans are creating more inclusive workplaces and a more inclusive state and attracting those people. And I am proud that my Omaha Chamber, the mayor has been in support of this, and our city has been in support of this, because I think they're seeing the economic and the social opportunity to make sure we're standing by Nebraskans and to continue to go into the next several years being a more inclusive place. And so with that, I want to thank you, colleagues, for having this discussion. I hope you stand with me in supporting this legislation, because I think it's one of these rare instances where we're often trying to do everything to make people's lives better, and there's a group of individuals that we may be leaving out of the equation by not enacting or supporting something as simple as making sure they're protected. And they are still obviously competent in the workplace, but they're protected and there's due process there. So thank you very much, and I can look forward to continuing to hear the rest of the conversation. [LB173]

PRESIDENT FOLEY: Thank you, Senator Vargas. Senator McDonnell. [LB173]

SENATOR McDONNELL: Thank you, Mr. President. I stand in support of AM958 and LB173. I was thinking about a conversation I had with my grandfather and what he was telling me about being Irish and Catholic in the United States and about what happened with his father and his grandfather. And how there were signs where, help wanted, Irish not need apply. The only thing they wanted to do was work. They wanted to be hired because they had the ability to do the work. And if they couldn't do the work, then fire them. But don't not hire them because they were Irish or Catholic. So then they would hide that. They would hide that they were Catholic.

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They would hide that they were Irish. And they would be doing the work, and then someone would find out and they would be fired. Now I think about 2017. I think about my grandfather and I think about his great-grandson, my nephew, who is gay. I think about him doing the work. Wanting to be hired because he wants to work. Doing a great job and then someone comes up to him and says, you're terminated because you're gay. There is no difference what happened 100 years ago in this country, 150 years ago in this country, what's going around the country, the world sometimes based on the difference that we're talking about right now in 2017 and what potentially my nephew, my grandfather's great-grandson, and other people are going to go through. They want to be hired because they can do the work. They should be fired because they can't do the work, not because they are Irish or Catholic or gay. I ask you to please support LB173 to give people the opportunity to do the work, stand in the workplace and be judged on the ability to do the work and, if so, be fired because they can't do the work, not because they were Irish or Catholic like my grandfather or because of my nephew today who happens to be Irish and Catholic and gay. Thank you. And I'll yield the rest of my time to Senator Morfeld. [LB173]

PRESIDENT FOLEY: Thank you, Senator McDonnell. Senator Morfeld, 2:30. [LB173]

SENATOR MORFELD: Thank you, Mr. President. And thank you, Senator McDonnell. I think Senator Mike McDonnell brings up a good point, that the reason why we have our current protected classes such as race and nationality is because there were periods in time in our history where people were discriminated against based on things they could not control, based on who they were. Nobody could control if they were born in Ireland. People can control their religion, but oftentimes they choose not to and they choose to identify in the religion that they were born and raised in. And the reason why we have these protected classes is because these people were discriminated against. And they were discriminated against based on something they couldn't control or we have decided that you can control certain things but you shouldn't be discriminated against based on those characteristics, whether it be pregnant, whether it be marriage. That is the importance of these laws. And the importance of these laws are because when we live in an environment that is free of discrimination, not only do we live in an environment where we respect civil rights and the individual dignity of everyone as guaranteed in our constitution, but

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also we live in a more prosperous society. Because in a society that is free of discrimination,...  
[LB173]

PRESIDENT FOLEY: One minute. [LB173]

SENATOR MORFELD: ...we have the ability to avail ourselves of the economy, of interstate commerce, of all these things that make us more prosperous as a people, not just more accepting and not just more dignified in terms of civil rights and being a modern society but it makes us all more prosperous economically. And that's why we have the ability to regulate interstate commerce. That's why we said, back in the 1950s and '60s, that black people not being able to go into certain restaurants or bars or stores was bad not only for civil rights, first and foremost, but also it's bad for the economy. And that's why the federal government, under their enumerated powers, is able to regulate that. That's why this is permissible. That's why federal courts are starting to find that this actually does fall under protected categories and is discrimination. But we shouldn't wait for federal courts. We should do what's right now. [LB173]

PRESIDENT FOLEY: Time, Senator. [LB173]

SENATOR MORFELD: Thank you, Mr. President. [LB173]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Blood. [LB173]

SENATOR BLOOD: Thank you, Lieutenant Governor. Fellow Senators, friends all, especially the ones that for some reason are not in the Chamber listening to this debate today, these wedge issues, be it abortion, be it LGBT, be it guns, you put in a wedge word on these bills and we talk about a lot of things except for what the bill is actually about, and that drives me insane. And I wonder if I put the word "Cornhuskers" in a bill if everybody is going to stand up in support that, because that would be really interesting. Because I see people take sides based on religious beliefs that really have nothing to do with the bill. And granted, I've stood up here before and talked about my religion in order to school Senator Chambers, my esteemed colleague. But I try not to distract from what's at hand. I stand in support today of both the amendment and the bill. But with that said, I think Senator Crawford, if she would yield to some questions. [LB173]

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PRESIDENT FOLEY: Senator Crawford, would you yield, please? [LB173]

SENATOR CRAWFORD: Yes. [LB173]

SENATOR BLOOD: Senator Crawford, what county is your district in? [LB173]

SENATOR CRAWFORD: Sarpy County. [LB173]

SENATOR BLOOD: Sarpy County. Did you read the exciting news about Sarpy County, what we're getting? It begins with an F. [LB173]

SENATOR CRAWFORD: Facebook? [LB173]

SENATOR BLOOD: Facebook. [LB173]

SENATOR CRAWFORD: Yes. [LB173]

SENATOR BLOOD: Isn't that exciting? [LB173]

SENATOR CRAWFORD: It is very exciting. If we get some... [LB173]

SENATOR BLOOD: Do you know what other...oh, I'm sorry. [LB173]

SENATOR CRAWFORD: Go ahead. [LB173]

SENATOR BLOOD: Do you know what other exciting business we have in the La Vista area that is kind of similar? [LB173]

SENATOR CRAWFORD: I believe you might be talking about PayPal. [LB173]

SENATOR BLOOD: PayPal. Aren't we excited to have those two companies? [LB173]

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SENATOR CRAWFORD: We are very excited and we're excited to get sewers in Sarpy County to get even more. [LB173]

SENATOR BLOOD: "Yeehaw!" So one thing that they're know for is being very inclusionary, wouldn't you say? [LB173]

SENATOR CRAWFORD: I would say. I would say technology companies are known for caring very much about clean energy and inclusiveness, yes. [LB173]

SENATOR BLOOD: Because they're millennials, those millennials with their beards and everything. [LB173]

SENATOR CRAWFORD: Yes. [LB173]

SENATOR BLOOD: Do you remember what happened when North Carolina pushed through that anti-LGBT bill? [LB173]

SENATOR CRAWFORD: Yes. They lost many...they lost NCAA games and they lost other conventions and businesses. [LB173]

SENATOR BLOOD: Uh-huh. And PayPal canceled plans to build a new global payment center. Did you know that? [LB173]

SENATOR CRAWFORD: I did not know that. Thank you, Carol Blood...Senator Blood. [LB173]

SENATOR BLOOD: Both are correct. You know, the thing that concerns me is that I support the Governor's efforts to bring new business into Nebraska. Don't you? [LB173]

SENATOR CRAWFORD: Yes. [LB173]

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SENATOR BLOOD: And this effort about licensure to make sure that people can come and work in Nebraska. [LB173]

SENATOR CRAWFORD: Yes. [LB173]

SENATOR BLOOD: That's exciting. [LB173]

SENATOR CRAWFORD: Yes. [LB173]

SENATOR BLOOD: So how exciting is this bill? Pretty darn exciting. [LB173]

SENATOR CRAWFORD: It should be very...it should be very exciting for bringing young professionals to our state and other people to our state. [LB173]

SENATOR BLOOD: Do you know what happened, Senator Crawford, and hopefully you know the answer, to Indiana when they passed their religious freedom law? Do you know how much money they lost? [LB173]

SENATOR CRAWFORD: I know it was a large amount of money and that they also lost businesses and conventions, yes. [LB173]

SENATOR BLOOD: Over \$60 million in revenue. That would be almost half of our deficit here. [LB173]

SENATOR CRAWFORD: Yes. [LB173]

SENATOR BLOOD: So would you say, in general, based on what we know in Sarpy County, that a bill like this is kind of a welcome mat to the type of businesses that we want to prevent the brain drain in Nebraska? [LB173]

SENATOR CRAWFORD: I would say it's very important. Our county is growing in terms of recruiting businesses as well as it's one of the fastest growing residential areas, and to accelerate

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that residential growth and bring more people into our state, LB173 is an important policy about who we are, yes. [LB173]

SENATOR BLOOD: And I would agree. And I appreciate you helping me with this. It's always good to promote Sarpy County. That's what we're here for. With that, I just want to close and say... [LB173]

PRESIDENT FOLEY: One minute. [LB173]

SENATOR BLOOD: One minute. I just want to saying that, gosh darn it, wedge issues are wedge issues. It isn't about taking a side about your religion and personal beliefs. This is about what's best for Nebraska. And you've got to put this in perspective. I have strong faith and my faith includes social justice. And with that, I have to say because of my faith, which apparently is different than other Christian faiths, I support this bill and the amendment, and I hope that you do too. [LB173]

PRESIDENT FOLEY: Thank you, Senator Blood and Senator Crawford. Senator Harr, you're recognized. [LB173]

SENATOR HARR: Thank you, Mr. President. Thank you, members of the body. For a while there I was thinking I'm not going to get up, I'm not going to talk about this. I'm not sure I can add anything that hasn't already been said. But then it occurred to me we're making a record here. And there are people watching. There's the NCAA that's watching. I hear Lincoln wants to get a tournament in Lincoln. They want to get basketball. The NCAA may not come here if we don't have a policy that protects. And then I thought about it. There are people I know who I am good friends with who are gay, and they're watching. And I put myself in their shoes and said maybe I should just talk a little bit about and inform myself a little bit more on this and say why this bill may not do what people think it does. The Civil Rights Act does provide some protection for religion in Section 7. You cannot discriminate or deny someone a promotion based on their religious belief. So when I hear, hey, this is going to discriminate against a religion, I'm not buying that. And I haven't heard of an instance where this did occur in Nebraska, in Omaha. Yeah, it is very common to have rights that conflict with each other. This would not be the first

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or only time that it's happened. Happens all the time. We have ways of dealing with that. We have courts that can deal with that. So some of this, I think, is a bit of a Trojan horse that I am hearing out there. It's trying to hook on and find an argument as to why I'm better than those people and I don't need to give them the rights. They're no better, they're no worse than the rest of us. And by "they" I mean us. All of us in this body are no better and no worse than anyone else. And we want to protect each other. We want to make sure that people are judged by the content of their character. That is all we're asking for. So I know I try in my own life to judge people by their actions, not something superficial. Sometimes it's easier said than done, but that's my goal. That's what I aim for. And I think this bill helps to make me a better person, helps to make Nebraska a better place and a place more welcoming to all of those no matter who they love. So thank you very much, Mr. President. [LB173]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Geist. [LB173]

SENATOR GEIST: Yes, thank you, Mr. President. I'm just going to read a couple of excerpts from people who have written me who happen to agree with the position that I hold to. And it's...I'm not going to read their names, but this particular gentleman says that I believe that all men and women are created equal and deserve respect, but LB173 goes far beyond preventing unjust discrimination. It would allow the government to coerce and punish differing beliefs on marriage, family, and human sexuality. As an individual, a business owner, and a director of a nonprofit religious organization, LB173 endangers my ability to live out my sincerely held moral and religious beliefs. And then I have another one that says we all agree that arbitrary discrimination is wrong. The citizens of Nebraska do not refuse to hire simply, or fire simply, because they are gay, lesbian, or don't fit typical gender norms. Laws like LB173 can foster widespread discrimination against people of faith and those with traditional understandings of marriage and sexuality. In America, people should be free to live and work according to their beliefs. It's one of the principles on which this country was founded. And with that, Mr. President, I will yield the rest of my time to Senator Hilgers. [LB173]

PRESIDENT FOLEY: Thank you, Senator Geist. Senator Hilgers, 3:30. [LB173]

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SENATOR HILGERS: Thank you, Mr. President. Thank you, Senator Geist. I wanted to follow up on the conversation I had with Senator Morfeld earlier because I think there's a couple different issues. One is I think the issue that has been discussed mostly today, which is the ultimate purpose of the bill, what it is intended to accomplish. The issue I was focusing on is the language of the bill and what does it do and what does it not do, because I think it's very important when, we put language into statute and when that language says you shall not do something and if you do do it you will get sued, I think it's very important for us to be precise. And so what I was doing in my conversation with Senator Morfeld was discussing the definition of gender identity. So there's a general rule of statute...and by the way, before I say this, this is what often happens as I've observed in my 60 days here on the floor with Senator Chambers or Senator Schumacher. Regardless of the merits of the bill, it's important to have good legislation that's precise and clear and provides fair notice for the citizens of Nebraska. And so there's a general rule of statutory interpretation that if a term is not defined, it typically gets its plain meaning. So if you have an example where you say, you shall not eat an apple, and you don't define what apple is, everyone sort of knows what an apple is. But if the Legislature goes to the effort of defining what an apple is, then whatever your the typical definition of an apple, doesn't matter. What matters is how the Legislature has defined it. So if we define apple and in a separate section say apple shall mean rocket ship, then it is no longer shall eat an apple. It's shall not eat a rocket ship. And that's just the typical cannon of statutory interpretation. And so what I was going through with Senator Morfeld with the definition of gender identity is that the definition is not geared or limited textually to gender. It says shall mean the actual, perceived appearance, expression, identity, or behavior, and doesn't...does not limit it any further than that. Now there are arguments, if this was in front of a court that I think there would be some arguments, potentially some good ones, to say that really what we intended to do as a body was to limit it to gender. But that's not what the language says and I think we have to be very precise and very clear. And I've had some conversations with Senator Morfeld off the mike about what that type of amendment could look like to make sure that we're being very clear. And whether it's been used in other states or in other jurisdictions I think is beside the point. I think for our task, I think it's very important for us to be clear and precise of what we do to give fair notice, especially when what happens is lawsuits are filed. And I'd heard Senator Morfeld, as well as Senator Hansen, discuss the litigation process. It is absolutely true that cases are not won without evidence. [LB173]

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PRESIDENT FOLEY: One minute. [LB173]

SENATOR HILGERS: But it is not true that cases are not filed without evidence. Cases are frequently filed all the time with fairly specious or unsupported allegations. The whole point of the process is to flesh out those allegations through discovery. And so while it is true that you have to have some basis, and in the law we call that a colorable basis, you have to have some basis to file a suit, it isn't a very high hurdle. And so the concern when you combine unprecise language with the ability of individuals to file suits and those suits then trigger the expensive legal fees and distressing and anxiety of being hauled into court, those two elements combined are serious and they ought to be considered. And so I think what I was trying to do was to discuss the particulars of the language, the precision of the language, how you can make these definitions better and more clear, because if this is the Legislature's intent, we ought to do it correctly and precisely. Thank you, Mr. President. [LB173]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Bolz. [LB173]

SENATOR BOLZ: Thank you, Mr. President. I want to refocus on some of the bigger picture philosophy and some of the bigger picture legislative and policy intent in this legislation. And I think there is common agreement around the importance of lack of discrimination. And regardless of your particular perception of this piece of legislation, I think there is broad agreement that discrimination shouldn't occur on the basis of religion, on the basis of political activity, on the basis of disability. Those are things that are I believe a part of American culture. And I just want to articulate that there is already protections in the law using this language of perception to protect those classes. So the U.S. Equal Employment Opportunity Commission prohibits discrimination on the perception of religion, and defines "perception," harassing or otherwise discriminating because of the perception or belief that a person is a member of a particular racial, national origin, or religious group, whether or not that perception is correct, for example, failing to hire an Hispanic person because the hiring official believed that he was from Pakistan, or harassing a Sikh man wearing a turban because the harasser thought he was Muslim. Similarly, perceived disability is squarely protected in the text of the Americans with Disabilities Act. An individual meets the requirement of being regarded of having such an impairment, as in having a disability, if the individual establishes that he or she has been subjected to an action

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prohibited under this chapter because of an actual or perceived physical or mental impairment, whether or not the impairment limits or is perceived to limit a major life activity. So other pieces of law articulate that it is not okay to discriminate based on a perception of any kind. And this legislation simply adds sexual orientation and gender identity to that list because we don't believe broadly that it is okay to discriminate on the basis of a perception or on the basis of a list of things that are things we hold dear: our personal lives, our beliefs in a higher power, our physical or mental abilities or inabilities. And that perception, that...sorry, that position is supported squarely by our employers. The employers of the state that are the ones who have the HR departments who make these difficult decisions and who are the most responsible for making sure that we interpret employment law in an accurate way, in a way that is fair to people, are the ones who are some of the ones who are most adamantly in support of this bill. The Omaha Chamber has shared a letter with all of us and I'll read some of it into the record. Employees of companies in Nebraska and job applicants to those firms should have the expectation that they will not be discriminated against by their employer because of who they are, just as they are protected from discrimination based on gender, ethnicity, and religious beliefs. All of this hangs together. Additionally, we have a letter from the Lincoln Young Professionals Group and the Omaha Young Professionals Group, and they say for younger generations of workers and business owners these are expected protections. LB173 works to ensure that Nebraska's business climate remains competitive and inclusive so we can continue to compete on a national level. Nebraska must remain attractive to all workers and companies. They end by saying, let's send a message that Nebraska is open for business and we value a collaborative community that empowers all young professionals. So, colleagues, I think that when we look at the broad principals, this legislation is perfectly consistent. It's perfectly consistent with the other protections of other priorities and other things that we hold dear and it's perfectly consistent with the employers in our state who want to hire top talent and who are willing to implement employment law to the greatest of their capacity, to the best intent of the law, and to the greatest fairness for their employees. So, colleagues, I continue to urge your support for LB173. Thank you, Mr. President. [LB173]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Schumacher. [LB173]

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SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Before I get to the main part of my remarks, I'd like to make a couple of observations. First of all, it appears to me that Senator Hilgers is emerging as the heir apparent to my title of "Professor of Pickiness." (Laughter) Senator Chambers will have to train him just a bit more yet, but I think we're getting there. The other observation is Senator Morfeld indicated that...in his exchange with Senator Craighead that he felt that the perception was in the eye of the employee. I read it as being in the eye of the employer. Senator Morfeld graciously just told me that he accidentally misspoke. Kind of sounded deliberate to me, maybe premeditated, but he'll have to clarify that. On this issue when I initially came down here, my reaction to it was twofold. One, it's not a problem certainly in my district. And number two, I don't want to set up an employer to be victimized by an employee seeking to get a free lunch by using a law such as this. Well, it was with some interest that I watched what the city of Omaha did in passing their ordinance because experiment, because testing is a way to resolve these ambiguous issues. You know, we were big on no same-sex marriage. World was going to end. Sun would start rising in the north. Terrible things would happen. Well, Supreme Court did its thing on same sex message (sic) and, darn, sun still rises in the east, no big change in the world except for those people very directly affected. Certainly society goes on. I have been persuaded in the interim by the arguments of the chambers of commerce and the business community that this is one of the drags on our ability to attract talented people and to look like we are a state in the twenty-first century instead of the eighteenth century, and that's important. From my conversations with my associates on the Coast, some of whom are in positions of decision making with halfway significant companies this is may be looked to more than taxes, if you can believe that. It's important to the new millennial generation who perhaps look at life a little different than those of us who were educated in the '60s. I have been persuaded by that argument. The second thing is the city of Omaha's experiment has not resulted in a mass of harassing lawsuits against employers. Didn't happen. All right. Then where does the balance of decision making land? On many of these issues, I try to look out into the future 50 years and ask myself, is this still a big thing 50 years from now? Will we have resolved it by then? [LB173]

PRESIDENT FOLEY: One minute. [LB173]

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SENATOR SCHUMACHER: I think on this issue the answer is yes. Somewhere in the next decade or so this will cease to be a big issue because we will have moved past it. This is a hangover from the past. And so the question is fairly simple: Shall we bring the future into being now? I think we should. Thank you. [LB173]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Halloran. [LB173]

SENATOR HALLORAN: Thank you, Mr. President, colleagues. It's been...excuse me. I'm 13 years old; my voice is just still changing. (Laughter) It's been an interesting and enlightening conversation, discussion, debate. I think this is what makes this is body particularly special. Would Senator Pansing Brooks please yield for a question? [LB173]

PRESIDENT FOLEY: Senator Pansing Brooks, will you yield, please? [LB173]

SENATOR PANSING BROOKS: I will. [LB173]

SENATOR HALLORAN: I may have misunderstood and please clarify if I misunderstood, but I think in an earlier comment you said something about if an employee comes to work improperly dressed, you can fire them? Is that right? [LB173]

SENATOR PANSING BROOKS: No. I said if they come improperly dressed, you can speak to them and continue to talk to them, and if they continue to disregard what you're saying, yes, then you would have some cause to do so. [LB173]

SENATOR HALLORAN: Correct. So if an individual is hired, perceived or not perceived to be of a particular gender but they come in and they...say, an individual who is male by perceived to the public, comes in, and comes in, in a dress, a skirt, and presents that way to the customers, and the customers show some level of discomfort at that, can the manager talk to that person, one, two, three times and then be able to, upon the third time, upon the third transgression, terminate their employment? [LB173]

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SENATOR PANSING BROOKS: I think if it's disturbing your business, you have a right to talk to the person about whatever it is that is happening. But I also think that there are some rights that have to be weighed. [LB173]

SENATOR HALLORAN: Well, there certainly are. Okay. Thank you. There's been a lot of language and I think we tend to use a lot of hyperbole on the floor, and I'm as guilty as anyone for doing that. But I've heard a lot of very strong language about individuals who may have some anxiety about this bill, who have some concern that it may impose upon their personal religious beliefs, which I think they need to have some level of protection. I think it's Article I, the constitution. But there's been some strong words used, such as hate, reviled, no longer worthy, guilty. Terms...those terms were used or suggested to be used by people against people in a gay lifestyle. Honestly, folks, I go to a lot of business seminars. I meet on a regular basis with a lot of business people who employ a lot of people and I've been in and out of their businesses and I see people, the full spectrum. And they hire people because of their qualifications. I've never heard a businessman say it's my practice not to hire a gay person. Don't see it. I don't see signs on the doors for sure. I don't see signs on the door like back in the day for the Irish, no Irish hired. I don't see signs that say no gays hired. And the cloud of dust I saw the other day going by the farm back home, we live within proximity to the Oregon Trail. I thought there was an onslaught of the people that were of LGBT persuasion that were migrating out of the state on the Oregon Trail again, the dust was so high. It turned out we had another windy day in Nebraska. I just don't see the reason or the rationale to create a law which will one more time micromanage... [LB173]

PRESIDENT FOLEY: One minute. [LB173]

SENATOR HALLORAN: Thank you, Mr. President...will micromanage the way businesses have to run their businesses. And again, I will speak in defense of this state. It's a great state. One senator said, you know, if this bill is passed I will be proud of this state. Well, folks, this state will be a great state with or without this bill. Thank you, Mr. President. [LB173]

PRESIDENT FOLEY: Thank you, Senator Halloran. Senator Lowe. [LB173]

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SENATOR LOWE: Thank you, Mr. President. We have had some talk today that we need this bill to support our economic development. There appears to be no evidence supporting the claim that the absence of sexual orientation and gender identity in Nebraska or Omaha, nondiscrimination laws has had any effect on job creation and economic growth despite the claims that the addition of these classifications is necessary if we as a state want to grow its economy and our jobs. The facts indicate otherwise. Indeed, numerous studies suggest that states without these classifications may actually have greater economic growth, while states with them have comparatively weaker economies and slower growth rate. This is not a suggestion that there is a correlation between low economic growth and the presence of these classifications in law, or between economic...strong economic growth in the absence of these classifications. My point is there is absolutely no correlation between stronger economic growth and these classifications. Seven of Forbes most recent top ten states for business do not have state nondiscrimination laws that include sexual orientation or gender identity as protective classes. Each year Forbes publishes its list of the top ten states for business. The magazine considers many factors, including items such as business cost, regulatory environment, economic climate, and growth prospects. Its most recent 2016 list is telling. Of the top ten states for business, seven do not currently include sexual orientation and gender identity in their nondiscrimination laws. And, yes, Nebraska is number three. We are a strong economic state. And if you don't like Forbes, let's try CNBC. Nebraska is number seven on CNBC's list, and four out of the top eight do not have. So it makes no correlation when we're talking about business that this will help. As a businessman, I never once asked anybody what their sexual orientation was. I understood them to be a man or a woman. That's all I need to know. I need to know if they can do the job. That's all I need to know. I don't care who they go home with. I don't care of anything else. I want the best people working for me. And if it causes a small business to stop and think will this harm me if this law passes, this is not a good law. As a small businessman, I would have to think every day on what I say, how I act, and who I look at. We're running small business out of Nebraska with laws like this. I am not in favor of the amendment nor LB173. Thank you, Mr. President. [LB173]

PRESIDENT FOLEY: Thank you, Senator Low. Senator Krist. [LB173]

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SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraska. This is my fourth time hearing this bill in the time that I have been here, and the other three times I have not stood to support the initiative. This time I am standing to support AM958 and LB173. I asked Senator Morfeld why that might be and he said, because you've become enlightened. (Laughter) I'm not sure if that's the case, but I can tell you this. It was mentioned in this Chamber before that the social experiment that is the city of Omaha decided to put this legislation in place. The experiment that was doom and gloom--I think it was Senator Schumacher who might have brought this up--the experiment that was forecast to be doom and gloom and that we would have so many frivolous lawsuits has resulted in quite the opposite. We've had several sexual discrimination and sex crimes, as they would be called, in Omaha that have been dealt with because of these kinds of initiatives in Omaha, and it's become a friendlier place. It's become a friendlier place, both for businesses and for social interaction and to retain the youth, the brain trust, that we have to maintain. Kind of take exception to Senator Howard's description of how she fled and then she ran back, but I, too, had a similar situation in terms of wanting to leave Nebraska for Florida or Europe or whatever. And I spent my years on the road other places and I looked at what was going on in other places. And I'm not sure if it was wanting to come back as much as it was appreciating what was here and I had not seen all along--the ability for people to get along, to establish friendlier conditions, to be more accommodating for differences. But I will tell Senator Morfeld that the reason that I am supporting it this year is because my son is a millennial. His friends are millennials. We have both family members and friends surrounding us who are one of those consonants that are strung together and I think sometimes disrespectfully referred to. And I think it's time that we stand up and say it is time to treat people as they should be treated, as people, no matter what they are. Now, do I think that there's not going to be an abuse down the road of our litigious society in terms of trying to sue something for someone every time we turn the corner? It's a fact of life. It's kind of like saying we don't want gambling in the state because it's bad, but then we support our citizens who run across the borders of this state to gamble someplace else. And you know what? We still have those effects here on a daily basis. So I would, with that--I've said everything I need to say on the subject matter--I'd give the rest of my time to Senator Morfeld if he'd like it.

[LB173]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Morfeld, one minute. [LB173]

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SENATOR MORFELD: Thank you, Senator Krist. And thank you, Mr. President. First, I want to sincerely thank Senator Krist for supporting the legislation. This has truly been a journey for both him and I. I think it was a year or two ago he was actually the one that introduced the motion to kill the bill, successfully. And so I want to thank him for really taking this issue to heart, thinking about it, and then changing his mind after many years of debate on this issue. And I want to thank him and I appreciate that. Colleagues, I think that it's important to note that there are many businesses, in response to Senator Lowe's discussion, there are many businesses that have written letters, which we will hand some out that have said, listen, this is a big deal for us. We would look at expanding even more and this would bring in more work force. If you go and look at the inverse of what's happened, of that we're trying to do here in North Carolina, it's brought millions and million dollars out outside of the state and has... [LB173]

PRESIDENT FOLEY: Time, Senator. [LB173]

SENATOR MORFELD: Thank you, Mr. President. [LB173]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Pansing Brooks. [LB173]

SENATOR PANSING BROOKS: Well, I'm really glad that I was after Senator Krist because, as you know, this is something that's very hurtful to me. And Senator Morfeld brought the bill two years ago. I prioritized it. And that was the one time that I pretty much lost it after it was voted down and became teary about the whole situation. I'm pretty much able to hold it together now because I still care for all of you in the body. I am friends, and I can honestly say friends, with almost every single one of you. So I've learned to compartmentalize where you are in your life's journey versus where I am. Senator Chambers said one time in a hearing that, depending on how our life moves forward, we end up at different places with different experiences that cause our hearts to change at a certain point in a different way. And he said it way more articulately than I did, of course. But the point is the fact that I have a gay nephew and a gay son that, of course, changed my whole world. I understood immediately how the person that my son is has nothing to do with who he is as a person, or the person he is sexually and what his orientation is has nothing to do with his love for me, his competency in this world. And, you know, it was so, so painful that year when it was voted down. When Senator Krist put up that amendment I got

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really angry with him. But that's, of course, because this is about my son. Somebody said, well, don't take this personally. Are you kidding me? This is personal. It's personal when you all stand up and say, oh, well, this business is, you know, it's really going to be hard because we're running businesses out of the state. We're running people out of the state, human beings, human capital. North Carolina has lost \$560 million so far, so if we want to talk about business, we can talk about that. If this had to do with a disease that one of your children had or grandchildren, you'd be just as fiery about this as I. If this were about your disabled daughter or your child who's happened to choose to have tattoos all over or the fact that your child is dyslexic or your cousin is or my brother is, you would be just as fiery and upset about the lack of willingness to open a mind and realize we're talking about the ability of people to work and not get fired for that ability. But then I need to take a breath because your experience isn't mine. The sincerely held religious beliefs argument, that is...that's just picking out whatever you can find to use for whatever excuse you can. The same arguments were used against the Catholics in the early part of last century. It was used against the African Americans. It's been used against the Hispanics. Oh, well, you know, my...they...the Bible said we can have slavery. So by getting rid of slavery, all the arguments were about, oh, my goodness, we're violating... [LB173]

PRESIDENT FOLEY: One minute. [LB173]

SENATOR PANSING BROOKS: ...the Bible; the Bible allows us. So again, picking apart the language about concern about precise language, that's disingenuous and you know it. You want to go on with your own life. You want to forget about my son and people like that. Just admit it, that's what it is. But you are on the wrong side of history. And be careful what you say here because we take quotes from people who are on the wrong side of history all the time. Thank you, Mr. President. [LB173]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Chambers. [LB173]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I want to use something on Senator Halloran that might make him understand what we're talking about. He said something, referring to himself: I'm bisexual. Then he looked around and said: Any media here? That's hypothetical. Why was he so quick to correct it? Because he knows there's a stigma

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attached to that term. He didn't even want it suggested that he was admitting to being bisexual. LGB, what do you think the B stands for? He knows better but he's not going to admit it. For us to have one of our colleagues with a child and hear the hateful things said here, the dismissive comments, they're not human. It doesn't have anything to do with business. Senator Lowe, I don't know what he is talking about or where he comes from. There are examples right now of the impact this hatefulness, and it is hatefulness, has on business. You've read letters from your chambers of commerce, not something that these, Forbes and others, talked about. They're probably places where is you don't pay wages, you don't have unions. You have a very oppressive type of environment when it comes to working people. But the thing about what we're talking about now is that these human beings are dismissed and they're not people. That is what the situation is. If everybody is human, once you say that the LGBT community surprises human beings what more is there to say? What more needs to be said? You know what you want for your child, if you've got a child. Or do you abuse your child? You hate your child? My good friend--and I'm not saying that sarcastically--Senator Hilgers, in his bill on the guns he said if you were subject to an ordinance then you can file a lawsuit. It doesn't have to be enforced against you. If you're in a place where they have a non...if they have an ordinance that would go against what his bill said, if they have the ordinance in place, you are a person entitled to bring a lawsuit. It didn't even...you didn't suffer harm from it. This is talking about guns so you....he can file a lawsuit if he and I are in this kind of organization we form and we go through Omaha and they've got an ordinance on the books that doesn't even effect us because they're not going to enforce it, we can sue anyway. Then we have people where history in this city, in the state, in this country are mistreated because of who they are. Some people would say what they are. They're scorned for being what they are and we know it. Some of you are so insensitive you refuse to see the nose on your face when you look in the mirror. So those people should not be entitled to file a lawsuit when they have been denied a right that everybody else takes for granted. But when it comes to these gun nuts--and that's what they are--if they are in a city that has an ordinance that isn't being enforced against them, they can sue the city and obtain damages. And it didn't even apply to them. They were just subject to it because they're gun owners and they're in the city, and the city has an ordinance that would restrict one of their rights. He needs to think about what...I read his law. [LB173]

PRESIDENT FOLEY: One minute. [LB173]

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SENATOR CHAMBERS: I listened to what you all say. And you say one thing on one bill and then you say something else. You talk about loving children. That's why you wanted the "Choose Life" license plate. Choose human dignity for everybody, not like Senator Geist who's going to say I believe in everybody having dignity and so forth, and then she denies their humanity. That's what's being done here today. You can dress it up any way you want to, and somebody needs to call it what it is. And you all know what it is even if I don't call it, but you don't want to say what it is. And this hiding behind religion is the most contemptible thing I can see because you are branding your religion. I have to stop because my time is up, but I surely don't feel like it. Thank you, Mr. President. [LB173]

PRESIDENT FOLEY: Thank you, Senator Chambers. (Visitors introduced.) Senator Wishart. [LB173]

SENATOR WISHART: Thank you, Mr. President. I just wanted to talk briefly--and I'll pass this out so more people have the information that I am reading from today--to broaden the discussion about the current level of discrimination and the hate crimes that are currently existing in the United States with the LGBT community. Lesbian, gay, bisexual, and transgender people are the most likely targets of hate crimes in America, according to the analysis of data collected by the Federal Bureau of Investigation. And I'm sure most of us are aware of the mass shooting that occurred last year on June 12, 2016. A 29-year-old killed 49 people and wounded 53 others in a terrorist attack and hate crime inside a gay nightclub in Orlando, Florida. Colleagues, we've come a long way, I believe we have, in supporting our LGBT community in this country, but, as I have clearly stated here, we have a very long way to two go. So let's move forward today and advance LB173. With that, I yield the rest of my time to Senator Morfeld. [LB173]

PRESIDENT FOLEY: Thank you, Senator Wishart. Senator Morfeld. [LB173]

SENATOR MORFELD: Thank you, Mr. President. Colleagues, I think the thing that we need to remember is the motto of our own state, the motto that many of us wear right here on our lapel: "Equality Before the Law." Now, equality before the law only means something if our laws reflect that. Our laws are representations of our moral values, of how we value others and others' individual rights as human beings. And if you're not convinced by our motto, the motto that

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many of us wear every day to work, just look at our constitution, Article I, Section 1, Statement of rights: All persons are by nature free and independent and have certain inherit and inalienable rights; among those are life, liberty, and the pursuit of happiness. It's hard to pursue happiness when you are born who you are and you are discriminated against based on that. And then, yes, we have religious liberty, but as I said earlier, religious liberty and those protections are for one's individual liberties, not so that one can take their liberty and then impose it on another and discriminate against them about an inherent characteristic of who they are. If you believe that nobody should be fired for being gay, which I think the majority, the vast majority, more than 33 for sure, if you believe that nobody should be fired for being gay then work with me. And if you have amendments, I will entertain those amendments. If there are technical amendments that you would like to see, I will entertain those technical amendments. I will work with each and every one of you. We need to have our laws reflect who we are, who I know all of you are. I know Senator Halloran wouldn't fire somebody simply for being gay. I know Senator Lowe wouldn't do the same. I know those people. I know who they are. But our laws have to reflect that because our laws are a reflection of who we are and the standards that we create and the standards that we hold all of our individuals and people within our state. And we have to bring meaning to equality before the law. And, colleagues, if we're going to bring meaning to equality before the law, we have to have laws that reflect that. [LB173]

PRESIDENT FOLEY: One minute. [LB173]

SENATOR MORFELD: And actions speak louder than words. And so I ask that all of us together take action on this. I'm willing to work with each and every one of you. Let's get it done. Thank you, Mr. President. [LB173]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Speaker Scheer, you're recognized. [LB173]

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. Colleagues, I would like to thank all of you for the discussion this morning. It was high quality, in-depth, passionate discussion and it was well worth the time that we invested this morning. I also want to thank you for this week's worth of work, actually, the last couple weeks' worth of work. We have done yeoman's job. I mean we've done a lot over the last two weeks and I really appreciate everyone's commitment

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and discussion on the issues that needed to be discussed. And those that are...were not needing a lot of discussion, we didn't have to spend a lot of time on and I do appreciate that. And I believe that is the consensus of the body. We're starting to come together as a legislative unit. We still have discussion. We still have our differences. But we continue to move forward and legislation that deserves to move forward is moving; that that does not has met its own fate by the majority rule. So I want to thank each and every one of you for your commitment and the time that we've put in. We are picking up momentum. We are getting close to being back square with the world, knowing that there's still going to be bumps in front of us. We still have a budget in front of us. We still have some very difficult issues in front of us, but we knew that. So in reference to that, I will continue to do and utilize the time as we have been. The mornings will be devoted to sole topics for the most part, unless I'm wrong, and you can...more than happy to prove me wrong if we move forward faster than not. (Laughter) Believe me, I'm not going to stand in the way. But you don't get an early lunch so, you know, it's not like at 10:30 we're going to go to lunch. Just so everyone is aware of where we're moving in the direction next week, Monday we will be working. Monday, these are the morning activities. Monday morning we'll be on LR6. Monday afternoon we will start with Select that we have on file. Tuesday we will be LB44, Senator Watermeier's bill. Wednesday we will be LB158, Senator Pansing Brooks' bill. And Thursday we'll finish the week with LB253, Senator Crawford's bill. And sometime in the middle of the week I will try to forward to you the following week's agenda as far as the ones that I perceive to be the time-consuming ones that we'll put in the morning. So again, I thank everyone's commitment. I appreciate what we have been able to accomplish. And with that, enjoy the long weekend. And, Mr. Lieutenant Governor, that's all I have to say. Thank you. [LB173]

PRESIDENT FOLEY: Thank you, Mr. Speaker. Items for the record, Mr. Clerk? [LB173]

ASSISTANT CLERK: One item, Mr. President. Your Committee on Revenue reports LB461 to General File with amendments. (Legislative Journal page 954.) [LB461]

ASSISTANT CLERK: Finally, a priority motion: Senator Albrecht would move to adjourn until Monday, April 10, 2017, at 9:00 a.m.

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PRESIDENT FOLEY: Members you've heard the motion to adjourn. All those in favor say aye. Those opposed say nay. We are adjourned.