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Rough Draft

Floor Debate
March 05, 2019

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FOLEY: Good morning, ladies and gentlemen. Welcome to George W. Norris Legislative Chamber for the thirty-sixth day of the One Hundred Sixth Legislature, First Session. Our Chaplin for the day is the Reverend Dr. Cynthia Lindenmeyer from the First United Methodist Church in Omaha, Nebraska; Senator McCollister's district. Please rise.

REVEREND LINDENMEYER: (Prayer offered.)

FOLEY: Thank you very much, Dr. Lindenmeyer. I call to order the thirty-sixth day of the One Hundred Sixth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

ASSISTANT CLERK: There's a quorum present, Mr. President.

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

ASSISTANT CLERK: No corrections, this morning.

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

ASSISTANT CLERK: One item, Mr. President. New resolution: LR37 by Senator Quick congratulating Jonathan Novinski on taking first place in the 500-yard free style at the state swimming meet. That's all I have this morning.

FOLEY: Thank you, Mr. Clerk. Members, just to confirm our typical practice, the speaking queue opens as soon as the Clerk announces the bill and the pages have been instructed to clear the queue prior to the introduction of the bill. (Doctor of the day introduced.) Proceeding now to General File. Mr. Clerk.

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ASSISTANT CLERK: Mr. President, LB627 introduced by Senator Pansing Brooks. (Read by title.) The bill was introduced on January 23; referred to Judiciary Committee; placed on General File with no amendments. It was considered by the body yesterday.

FOLEY: Thank you, Mr. Clerk. Senator Pansing Brooks, you're first in the queue. But before we get to the queue, if you'd like to take a couple minutes just to brief us and reminded us where we left off yesterday.

PANSING BROOKS: Yes. Thank you, Mr. President. I will just remind you that this bill regards LGBTQ workplace equity. It's the number one issue for the state chamber is work force development. So we are losing tax dollars due to people actually leaving the state because they do not have the protections that all other people have within our state. Senator Morfeld yesterday offered meetings with any of you who want to meet actual Nebraskans who have been affected by our lack of protections. Senator Hunt then came and spoke of actual-- her actual experience as our first brave, courageous, open member of the LGBTQ community. Senator DeBoer spoke of the right to life and liberty and the pursuit of happiness and the founding principles of our government. Then the opponents stood. The opponents stood to raise their hue and cry, filled full of fabrications, of bogus lawsuits, red herrings of religious discrimination, and even a baffling argument about how this bill would actually hurt our economic prosperity. Bogus. The opponents are grasping at straws because I believe many of them know deep down that Nebraskans are vulnerable and that the people with whom they work are actually at risk of being fired because of the person whom they love. The arguments came, and yet I believe many here know the right thing to do. The opponents are now avoiding a vote, but I believe that for the first time ever, Nebraska, we have a majority in the body that would pass this if we could get to an actual vote rather than a filibuster. That is heartening. That is hopeful. And with that, Mr. President, I ask you to bring on the baloney.

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

HUNT: Thank you, Mr. President. Thank you, Senator Pansing Brooks. I don't have any baloney today, but I guess that probably depends on who you ask. The march in Nebraska toward equality has been slow, but it has been steady. And this bill is one that's brought year after year

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and it is long past time in Nebraska to ensure that no one in our state can be discriminated against and fired from their job based on who they are. Whether it's about their race, their religion, their national origin, whether they are a man or a woman, what country they came from, or whether they're gay. This legislation isn't about special rights for anyone. It's not about creating a new protected class. It's about equal rights for everyone. I got a message last night saying that I was pushing a gay agenda in Nebraska. Well, I want to tell you that the gay agenda is getting a job and going to work. That's the only agenda that we're talking about here. And I'm really surprised by some of you and some of the things you have said; and some of the things you haven't said. This is not going to be forgettable for me, because this is personal. This isn't personal like you didn't love my priority bill and you don't want to vote for it. This is personal like talking about the inherent humanity of a person, and not just me, but many people who love you, who you love, who we live among here in Nebraska. So I'm going to remember where some of you were on employment nondiscrimination when you want my vote on things, when you're running for higher office, whatever it is you're doing, this is about humanity. This isn't about ideology. I expect some intellectual consistency here. And I think we owe Nebraskans some intellectual consistency. Because I expect that when we talk about government staying out of people's lives, when we talk about allowing the marketplace to work, allowing people to be judged by their individuality, by their hard work, by their tenacity, by their skill. If you believe in these things, you believe in this bill. If you believe in letting the marketplace choose winners instead of government, you believe in this bill. We know this because so many private sector businesses, Union Pacific, the Lincoln and Omaha Chambers of Commerce, the mayors of Lincoln and Omaha, plus 350 or so Fortune 500 companies already practice this policy and support it. So, saying you oppose this because you believe you're concerned about small businesses is bull hockey. Saying you oppose this bill because you support small businesses is really a joke. It's a really funny, silly joke, and it makes me think that you think I am a fool; that Nebraskans are fools. We've heard the most absurd exaggerations of the devastation this will wreak on small businesses, like all these poor confused small business owners are going to be conscripted as gender detectives and sexual orientation detective and they're going to get locked up because they don't know who's gay or something. There's no such problem as that. To comply with the law, an employer simply needs to make employment decisions based on factors other than sexual orientation and then they're not going to get into any trouble. If an employee is late for work, if she cannot do her job, if she's not qualified, then the employer is free to terminate or

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disciplines the employee. The employer does not need to figure out if that employee is gay before doing so. In 21 states already have laws on the books. And how many examples do we have of the poor confused befuddled business owner whose life is being ruined because he can't guess what people's sexual orientation is. It's never happened. There's no such problem. The opposition to this bill is made up by people who don't want to confront the real issue. And here's the real issue. There are Nebraskans who live in fear that they could be fired because of who they are, because of something about them that is not changeable. And if you think sexual orientation is a choice, then choose it. If you're straight and you think being gay is a choice, choose being gay. You can't, because you're straight and that's who you are, just like when you're gay or lesbian or bisexual, or whatever, that's just who you are, that's not something you can control. And so that's not something that we should be discriminating against. And we know that intellectually. We all know that. I don't know if you're afraid of consequences--

FOLEY: One minute.

HUNT: --from different lobbies or voters or what it is you're worried about. But in Nebraska, we stand for equality before the law, and this is an opportunity for some of you to do that. There's nothing preventing all 49 of us here from doing our jobs and standing up for liberty and justice for all; when you actually have a chance to do that in practice and it's not just a slogan or an oath that you're taking that has no consequences. This is something that has real consequences for people in real life, and we have examples of that. So let's not give any credibility to this made up argument that this will lead to increased litigation or infringes on religious freedom, because there's no such thing. That's not the real motivation or opposition to this bill. And we know that from seeing what's happening in other states. Thank you.

FOLEY: Thank you, Senator Hunt. Senator Albrecht.

ALBRECHT: Thank you, President Foley; good morning, colleagues; good morning, Nebraska. Every single person should be treated with dignity and respect. That's an undeniable truth. It is the job of government to defend constitutionally protected freedoms. Lawmakers should not pass laws that intentionally limit individuals or businesses' ability to exercise the freedom to practice their deeply-held beliefs. Nebraska is consistently recognized as a great place to start a business

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and for having strong economic growth. In January, a top job search site, Zippia, released the analysis of the best states for jobs in the United States based on data from the Bureau of Labor Statistics and the Census Bureau's America Community Survey. Nebraska was ranked fourth in the nation as the state where you would find good-paying jobs. Yesterday, Governor Ricketts announced that the Nebraska receive the "Site Selection" magazine's Governor's Cup for the third consecutive year. The prestigious award recognizes states that have demonstrated the most outstanding economic development achievements over the past year. Nebraska received the cup for having the most capital investment projects per capita in the nation in 2018. Yesterday, Omaha metro area also won the second consecutive award as the number one metro area with the population between 200,000 and 1 million in the country for economic development in 2018. The city of Lincoln was ranked fourth. As Senator Murman mentioned yesterday, 2018 "Forbes" listed Nebraska as the fifth best state overall for business and the second best state in the regulatory environmental category stating: Nebraska boasts low-business costs in a business-friendly regulatory climate. The Cornhusker state's average unemployment rate of 3.2 over the last five years was the second lowest in the country. LB627 could stifle the strides that we've made in economy growth over the last few years. Nebraska needs to maintain being a state that is open for business. We as lawmakers need to protect small business owners and create an environment in which they can thrive. The government shouldn't be dictating to business owners whom they should hire. The government should create an environment that allows business owners to hire the best candidate for the job and for the mission of their particular business. The government should not over-regulate businesses and force small business owners to choose between earning a living or operating consistent with their missions and beliefs. Nebraska businesses thrive because we do not regulate them heavily. In Nebraska, businesses enjoy the freedom to decide the types of policies they adopt and the missions that they seek to advance. Protecting freedom in the marketplace affirms respect for the diverse views, builds community, and guarantees the array of choices for everyone. Businesses have the right to be free to run their own business according to their beliefs and to contribute to the diversity which is essential in any thriving marketplace. All laws must respect the freedoms of every citizen no matter who they are. The idea that laws should be fair to every citizen should unite us on one common goal. Nebraskans value freedom to peacefully live their lives according to their beliefs, and I believe we need to protect the right of all citizens to live, work, and run their businesses according to their faith. I stand in opposition of LB627. Thank you.

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FOLEY: Thank you, Senator Albrecht. Senator Geist.

GEIST: Thank you, Mr. President. We've talked a lot about economic development in Nebraska, but I want to mention the "Lincoln Journal Star" reported yesterday that "Sight Selection" magazine released their list of top metro areas for economic development in 2018. Lincoln came in fourth in the tier two category which covers metro areas with 200,000 to 1 million people. Lincoln ranked ninth last year in the rankings. I'll also add that Texas and Ohio were winners as well. NET News also reported yesterday that Governor Ricketts has been awarded the Governor's Cup for a third year in a row for the state's dedication to new corporate facilities by "Sight Selection" magazine. Corporate growth per capita is taken into consideration when the winner is determined. Nebraska is recruiting and bringing in new businesses to the state and current businesses are expanding. One company that is recently announced that they will be coming to Nebraska is Google. They will be opening a data center in Nebraska. With all of these great things happening in our state, we need to continue to support business growth. Thank you, Mr. President.

FOLEY: Thank you, Senator Geist. Senator Morfeld.

MORFELD: Thank you, Mr. President. Colleagues, I'm going to start calling out some of this hypocrisy. First, would Senator Albrecht yield to a question?

FOLEY: Senator Albrecht, will you yield, please?

ALBRECHT: Yes, sir.

MORFELD: Do you believe somebody should be fired or not hired because they're black?

ALBRECHT: No.

MORFELD: Do you think somebody should be fired or not hired because they're a woman?

ALBRECHT: No.

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MORFELD: Thank you, Senator Albrecht. Senator Albrecht just got up and said that government should defend people's choice on who they want to hire and who they want to employ, that we should protect that right. But yet she just got up and said in the same breath that, no, people shouldn't be fired or hired on the account of their race. People shouldn't be hired or fired on the account of their sex. It's hypocritical. It's hypocrisy at the finest. It's not about religious liberty. You have the right to exercise your religion however you want. You just don't have the right to impugn somebody else's human dignity by firing them simply because they're gay, because you're uncomfortable with that, because you want to use the excuse of your religious liberty. You know what, people did that in the 1950s when they were trying to pass the same exact law that protected black people from being discriminated, protected black people from not being able to get services while they traveled from one state or one community to the other. This is nonsense. You need to step back for a moment and think, if you were gay or you were lesbian, if you were sitting in a job interview completely-- completely qualified, and then you go and ask, hey, I would really like domestic partner benefits for my partner. And then that person goes, oh no, oh wait a minute, the offer's rescinded; how you would feel; what message that would send to you and your family. It wouldn't send a message of, oh, Nebraska's open for business, oh, bring your Google data center here. Colleagues, this is not hard to comply with. I am an attorney. I am an employer. It's very simple. Don't base your hiring or firing decisions on whether they're gay. Super easy to comply with. Probably one of the most easy things to comply with in the business world possible. And believe me, I know a lot about what it takes to comply with all the rules and regulations dealing with running an organization, hiring people, and letting people go. Yes, could there be frivolous lawsuits? Absolutely. I could go sue Senator Halloran tomorrow. I could do it today. I could walk down to the courthouse. And you know what, we have a legal and a justice system that looks at the facts and determines whether lawsuits are frivolous or not. In some cases, if they're really frivolous, then you can get your court fees and get damages for that. Stop reading the Nebraska Family Alliance and the Nebraska Catholic Conference talking points and let's have a real discussion about this, a real discussion about right and wrong, and why we want to use religion in this state as an excuse to fire people for who they are and who they love. That is sick. I'm very frustrated right now, and I bet all of you can probably tell it. I'm frustrated right now because these arguments ring hallow. They ring hallow and it makes it hard to keep young Nebraskans in this state because it rings hallow not just in this

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room but across the country. The number one issue that we talk about every day with businesses and employers is being able to recruit and attract young Nebraskans.

FOLEY: One minute.

MORFELD: And I will tell you right now, that young Nebraskans take notice. They take notice whether they're LGBT, whether they're straight, and they take notice on whether their rights are protected or not, and they take notice in hypocrisy when you stand up and say, no, someone shouldn't be fired for being a woman or black; but, yeah, somebody should be fired for being gay. It's nonsense. It's nonsense because it's, number one, completely illogical. Number two, it's immoral; and number three, it goes to the dignity of human beings and who we are as a state and whether there's truly equality before the law. Thank you, Mr. President.

FOLEY: Thank you, Senator Morfeld. Senator McCollister.

McCOLLISTER: Thank you, Mr. President; good morning, colleagues. I rise in support of LB627. Why? Because it's the right thing to do. You may recall that Reverend Kent Little spoke and gave us a prayer a couple weeks ago. And in the newspaper, the "Omaha World-Herald," he made the following statement: Let me say, first, using appropriate, quality biblical scholarship, there is absolutely no biblical mandate to discrimination against homosexual orientation in the scriptures. Our Judeo-Christian scriptures have nothing to say about loving, mutual, equal, same-gender relationships period. It is just not there. However, for far too long, religious institutions, leaders, and others have used the Bible to discriminate, do violence, and oppress LGBTQ persons in the church and the laws of the land. I passed out a document called the "Heartland Proclamation." And I'll read part of that as well: As Christian clergy, we proclaim that the good news concerning a 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 that the debate is over. The verdict is in. Homosexuality is not a sickness, not a choice, and not a sin. We find no rational 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 that we are far from alone as Christians

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in affirming LGBT persons are distinctive, holy, and precious gifts to all who struggle to become the family of God. So, I think it's clear, and read the document. You can see there are a great many clergy folks that take that particular position. And to say that in the Bible has a prohibition against homosexuality is just flat out wrong. The other thing, employment. The city of Omaha passed this similar ordinance many years ago, and their experience has not shown that it causes all kinds of employment issues; now, no way, no how. So, I think we should embark upon this. Some day it will pass. Some day I'm sure it will pass. And I want to close by reading that quote from Martin Luther King: the arc of the moral universe is long, but it bends toward justice. Please support LB627. Thank you, Mr. President.

FOLEY: Thank you, Senator McCollister. Senator Lathrop.

LATHROP: Thank you, Mr. President; colleagues, good morning. I support LB627. I thought about what I was going to say when I had an opportunity on the mike. There's a number of different points I'm going to make at some point perhaps in the morning, but I want to talk about something that occurred to me over my previous eight years. Almost every year that I was here in my previous service, we'd see a bill that dealt with the subject of abortion; whether it was stem cell research or abortion, those bills would come up. And I would see the people of faith come in and they would say, we believe that at the moment of conception this is a unique life deserving of our protection, a unique person created in God's own image, a unique person. These are unique persons, unique people, and the fact that they are gay is not something that is a function of how they were raised. It's not a function of something that happened in their childhood. They're born this way. They're that unique person you talk about when the bills come to the floor and you want to talk about the moment life begins and the uniqueness of each one of these people. They are hard-wired this way. This is who they are. This is how they were born. This is how they came into the world. That's the belief. That's what we hear when we talk about embryonic stem cell research. It's what we hear when we talk about every abortion bill, that at the moment of conception these are unique people deserving of our protection. And now we're here on a bill that would protect them in the workplace. And the very people who talk about their unique characteristic at the moment of conception opposed the bill, and they do it, arguably, based on their faith. I don't buy it. It-- it is-- it accepts as a fundamental principle of that argument that this is a choice or that these are damaged people who had something happen to

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them about the way they were raised or some trauma in their life, and now they're gay; or that they deliberately made a decision. Deliberately made a decision. This is no more a decision than whom I'm attracted to or you're attracted to. They're hard-wired this way. Now the question is whether they're going to have protection in the workplace. But I understand we're talking about those people, that unique person. You want to talk about the moment of conception? You want to talk about them being born in God's image? Let's do that. Let's have that conversation today, because as far as I'm concerned you're turning your back on somebody, you're turning your back--

FOLEY: One minute.

LATHROP: --on an entire population of people who were created in God's image. He put them on this earth and hard-wired them this way. This is not a sin. This is what they want. This is what they-- as much as you wanted to be in a relationship with whomever you're in a relationship with because you were hard-wired that way, they are too. And should we make it difficult for them to maintain and keep employment in this state because of who they are? And by the way, it doesn't have any business, it's nobody's business who they care about. It's nobody's business. And we look like-- you know, so I have four daughters. They're all in their 30s. Their friends are moving away from here. You want to talk about the brain drain. They're leaving because of the general feeling around here--

FOLEY: That's time, Senator.

LATHROP: --is I don't agree--

FOLEY: That's time, Senator.

--with you guys anymore.

FOLEY: Senator Lathrop, that's time. Thank you. Thank you, Senator Lathrop. Senator Clements.

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CLEMENTS: Thank you, Mr. President. I still do agree that every person should be treated with dignity and respect, but I do think this LB627 is unwarranted. Again, as I said before, to be a protected class, traditionally you had to be denied access to education or economic opportunity, voting rights. We have, obvious, identifiable characteristics. I think if there were-- if there was science that said that you were born at birth that way that we would be hearing about that. I haven't heard that. I don't think we have a group that is lacking access to political due process, and this bill has not identified these protections are warranted. And if this is nationally a major problem, I think Congress would have passed legislation. I'm not aware of any federal legislation that exists to this effect. I agree there are various religious beliefs and interpretation of the Bible. I have my own and other people have theirs. I would appreciate my interpretation being respected. LB627 does protect religious expression of employees, but it still fails to protect the sincerely-held religious beliefs of employers, in my opinion. There are some practical effects of LB627. We've seen similar laws in other states result in numerous lawsuits used to silence or intimidate employers rather than its claim purpose of fostering employment of individuals. I don't want to create unfair discrimination toward employers who have personal religious convictions. Good government should adopt standards to promote the best interest of its citizens. I believe LB627 fails this test and fails to preserve constitutional freedoms of speech and religion that are foundational to our society. There are varying opinions on this issue, but I'm hearing proponents are increasingly calling opponents names and not respecting our sincerely-held beliefs. I saw an op ed in the "Washington Post" that said that Vice President Pence is insidious because he believes marriage is the union of a man and a woman. Insidious means harmful, treacherous or dangerous. Tolerance of beliefs should go both ways. Actor Chris Pratt goes to an evangelical church in southern California. It teaches, it believes in one man and one woman marriage. For this, actress Ellen Page attacked him writing: Being anti-LGBTQ is wrong. There are not two sides. To affirm what the Bible teaches, and Christians and Jews, have affirmed for 2,000 years is being called hateful. That seems to me to be reverse discrimination. No one wants to be a hater. No one wants to be accused of bigotry. And I believe all persons should be treated with respect. But I am, being 68 years old, and this issue has come up in the last 10 or 15 years, and I think it's too late to change my mind. And I will try my best to treat everyone with dignity and respect. Those who are gay that I know, I do that, and show them love as much as I can. And I'm just not able to support LB627 with the problems I see with it. With that, I yield my time to the Chair.

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FOLEY: Thank you, Senator Clements. (Visitors introduced.) Continuing discussion. Senator Pansing Brooks.

PANSING BROOKS: Thank you, Mr. President. Well, some of these arguments are just almost more than I can bear. And first off, we've heard that there's no data that people are, quote unquote, born this way. Well, there's data out there. And I'll be happy to send you the information. There's even data on the whole animal kingdom and how that all works and that there are actually same-sex animals in the world, but there's only data if we're willing to open our eyes and look at the data. The argument that, oh my gosh, I'm going to have to hire someone and I might not know that they're LGBT. And that's the point. You're hiring somebody on their qualifications. Same with if you hire somebody and you don't know if they're Mormon. We've created these protections through the decades because people are having issues and we need to make sure that our economies thrive by having great workers, not fearful of being fired for something extraneous to the work they're doing. I do think this discrimination is insidious. It is dangerous to people. This hatred and lack of willingness to be welcoming, to protect, and to acknowledge people within our community is dangerous. It's economically unsound. We are losing property tax dollars to all the people that have that as their number one issue. Guess what, people rights are my number one issue. So, you want to go ahead and complain to me about what it is that's happening in somebody's pocketbook, and I'll tell you what's happening in people's pocketbooks and what's happening in their hearts. Discrimination affects people's hearts. It affects people's pocketbooks. And these comments that I will respect somebody that they'll respect as long as they're protected from their ability to-- as long as they are protected in their ability to discriminate. Too late to change certain senators' minds, I've just heard. I'll try to show-- the quote was: I'll try to show love to these people. Try to show love? The number one direction from Jesus: Love your neighbor as yourself. Love the Lord your God with all your heart, soul and mind. So trying to show love to me doesn't cut it. And, yeah, I know you're all tired of hearing about my son. I know you're all tired about hearing about the staff that we have around us, that you all should be quite grateful for; and the comments are, well, they're here, they're protected, they're fine; I haven't fired anybody because they're gay. I know, exactly. So what is the problem? What is the problem? There's no problem. We should be protecting our brothers and sisters. We should be supporting people. We should be helping businesses thrive. I'll read a portion of a couple of the letters by the fabulous businesses in Nebraska that--

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FOLEY: One minute.

PANSING BROOKS: OK. Here's, for now, here's a quote out of First Data's letter. At First Data, we take pride in our commitment to diversity and inclusion, both in our practices with our customers and in our internal policies. It is fundamental to who we are. Who are you, colleagues? Who are you? In fact, the human rights campaign has named us as one of the best places to work for LGBTQ-plus equality and honor that recognizes our policies, our benefits, our infrastructure, and our initiatives. Signed by the head of Global Government Affairs, Kimberly Ford. Thank you, Mr. President.

FOLEY: Thank you, Senator Pansing Brooks. Senator Matt Hansen.

M. HANSEN: Thank you, Mr. President; good morning, colleagues. Colleagues, I rise in support of LB627 as I have on past measures during my tenure here. And it's my hope that as we keep debating this issue, we keep advancing, advancing to the point where this becomes common sense and we are ultimately able to enact it. I did want to raise one point, because this often comes up on this bill and I heard it a little bit more yesterday than today. But this idea of creating a new cause of action would create frivolous lawsuits. And this is a, kind of, just as an attorney, as somebody who's worked with this on other issues, other issues that aren't even related to, necessarily, anti-discrimination. If someone wants to file a frivolous lawsuit, they can already do that today. By creating a new cause of action, by creating a new protection, all you're allowing is more genuine lawsuits. If somebody is a disgruntled employee who's going to make up lies about an employer and use the legal system as a weapon, they can do that today just by filing a lawsuit. They can make up claims to the Department of Labor. They can make up claims to the EEOC. They can do whatever they want if they're going to go out. The only group that we're hurting by not passing this law is groups of people who have actual claims or potential actual claims of discrimination. Somebody who's going to make up a reason, somebody who's going to, you know, misinterpret a situation, whatever you want to say. That person has a frivolous came before or after we pass this law, and could still make some waves in the legal system before or after we pass this law. The only people who are-- who are protected by passing this law are people with genuine claims, or at least a good-faith claim worthy of further investigation and discussion. And that comes up when we talk about other issues, we talk about other issues,

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wherever we're creating a new cause of action, there's not a risk of extra frivolous lawsuits because those frivolous lawsuits are possible today. I know this personally. Completely unrelated to the issues adhere, you know, I've been the victim of a frivolous lawsuit. And, yes, it was annoying; but, yes, it was also allowed today because we just open our courts to everyone. And if you pay the filing fee and you have at least some alleged claim of action, you get to start a lawsuit, and that's just how our courts work and how our courts should work. So that's that issue on potential frivolous lawsuits. I don't think that that's something that can happen today, so the thought of actually providing more protections to people is somehow also going to increase those is contradictory in my mind, because that is something that is possible today and is already-- yeah, possible today. Secondly, I just kind of wanted to make sure everybody kind of, as we talk about the debate on who is really discriminated against. I would like everybody just to kind of take a step back and kind of reflect upon the privilege that you have when you're making that argument. If you were going to make the argument that the people who are being really discriminated against or make claims of reverse discrimination, I don't live your life, I can't say what you see. But I will point out that if you're claiming that your faith is being discriminated against, look at all the sections in our statutes in this bill where faith is already protected, where gender is already protected, where age is already protected. There are a number of protections where people on this floor who are claiming reverse discrimination or might claim reverse discrimination have protections they themselves are having and they're arguing the one class, the one group of people that we don't protection [INAUDIBLE] are actually the meanies, are actually the ones who are causing the problems. When you're saying that, there are people listening to this debate who have been fired, who have been fired expressly for being gay, who have been fired expressly for being gay--

FOLEY: One minute.

M. HANSEN: --with hateful language, with cuss words and slurs directed at them, who are saying, hey, calling out my buddy's use of a slur is actually discriminating against his religion. And then the person who has no right of action, who has no claim of law is at home watching this debate, and think of that person. Think of-- you're saying, sorry, I can't even finish this thought it's that tough and, kind of, catches me that off guard that the group that we know today, and I know Senator Morfeld has offered, by all means try and talk to some of these people who

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have been discriminated against, who have had that expressed, you know, I'm firing you, and they'll use a slur; and you're saying, hey, hey, calling out my use of that slur, my buddy's use of that slur is the real discrimination is just-- just think about that. Think about what you're really saying there to those groups who are affected.

FOLEY: That's time, Senator.

M. HANSEN: Thank you, Mr. President.

FOLEY: Thank you, Senator Hansen. Senator Ben Hansen.

B. HANSEN: Thank you, Mr. President. All right, so I guess it's my turn to play devil's advocate. And so I-- any time-- and I have mentioned this before during committee hearings when we're trying to make a law, we're trying to increase government control is I just need more specifics on a lot of things. And so these are just some of the questions that I have to maybe help kind of ease some of my internal issues a little bit. And so I think maybe I should lead with some comments here first about some of the things my colleagues have said. One of the things Senator Morfeld said, which kind of bothered me a little bit yesterday, being a business owner myself. He mentioned because businesses make profit or because they make money, they are obligated to do certain things; treat people a certain way. And just because a business makes money does not mean it's obligated to do anything besides the law. It is in their own interest and moral standing to treat people with respect and dignity, but not through obligation. And he also mentioned the number one problem in our state is keeping young talent here. I don't believe that's the case. I think the number one problem we have right now is property taxes. I'd like to spend more time talking about that. Another thing maybe our colleagues kind of mentioned, which kind of created a gray area with me was right now everything is going good in all the cities and all the businesses that are doing their own anti-discrimination policies. And we're seeing more and more, we're seeing a growing trend of that. And sometimes I wonder why we need government to step in to make laws when things are already on the right path. Government to me, a lot of times, this means we get in the way of things. One of the things my other colleagues mentioned, one of the things my colleague, Senator Blood, mentioned right away, was that we should not talk about religion. That it is no place in this discussion. Otherwise, we can talk about all kind of

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things pertaining to religion. And so I think any time we're going make a law, I think it is okay to discuss religion because it is-- there are a lot of beliefs out there for different people, just the same as the same argument we're having right now with discrimination against homosexuality and gender identity. I think any law we pass, when it comes to its connection and/or possible conflict with someone's religion is an okay discussion to have. I don't think anybody should shy away from that. I just had a couple questions for some people. And so, I wish if Senator Hunt would yield to a question, please.

FOLEY: Senator Hunt, would you yield, please?

HUNT: I will.

B. HANSEN: You mentioned something yesterday about brain drain. I think it was a good point. Are there any statistics-- and maybe someone else can answer this too-- if there are any statistics about people not coming to the state of Nebraska or people who are purposely leaving Nebraska based on the threat of termination from discrimination?

HUNT: Thanks for the question. I can't speak to specific statistics right now, but I know that in some of the awards that have been mentioned, like the Governor's Cup or when we're on the list of top-10 places to raise a family, top-10 places for millennials to live, top-10 places to start a business, one of the metrics that a lot of those organizations use to give that award are statewide anti-discrimination policies. And so we know that our lack of policies hurts our rankings in those awards. And I'd be happy to find data for you about out-migration of people, especially LGBT people or people who have LGBT children who do not see this as a place where they are welcome. There is data about that.

B. HANSEN: Thank you. [INAUDIBLE] specifics I'd kind of like to have when we're trying to make a decision on whether to make a law that's going to affect employers and other people alike. If Senator Pansing Brooks would yield to a question too.

FOLEY: Senator Pansing Brooks, will you yield, please?

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PANSING BROOKS: Sure.

FOLEY: One minute, Senator.

B. HANSEN: What does the term gender identity mean?

PANSING BROOKS: Gender identity is defined in our statutes, and I can look that up and define it. I'm not going to guess exactly the wording, but that is defined and we use it in other places in our statute.

B. HANSEN: OK, thank you.

PANSING BROOKS: It's how people identify themselves-- their gender.

B. HANSEN: OK. I think if we're going to make a law, we should know what the definition is.

PANSING BROOKS: Yeah. It's in our statutes. So I'll find it.

B. HANSEN: OK. Again, just trying to be specific about where-- I think gender identity when it comes to this law is a little bit of a fluid term when it comes to people's perception about their gender identity. I think that might create a little bit of a conflict between employee and employer. I have a couple other questions that I will wait for later on when I have a little more time. Thank you, Mr. President.

FOLEY: Thank you, Senator Hansen, Senator Hunt.

HUNT: Thank you, Mr. President. I used to be so afraid of this mike when I was running for office, when I was watching all of you down here. A big reason that I ran was because I saw what some of y'all were doing, and I thought, what makes me think I can't do that? What makes me think I'm not good enough to do that? And some of this stuff I hear on this floor, I just feel more confident than ever and more self-assured than ever that I belong on this mike. So gender identity is defined in statute as the actual or perceived appearance, expression, identity, or

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behavior of an individual, whether or not that appearance, expression, identity or behavior is different from that traditionally or stereotypically associated with the individual's assigned sex at birth. We've had the term "sexual orientation" in our statutes for over 20 years. The same argument of what does sexual orientation mean, what does gender identity mean, was raised 20 years ago when we adopted our hate-crime statutes which has been on the books since 1997. So, we can also see throughout history that there have been no wrongful criminal convictions because of this language in statute, because of this term. It hasn't led to any unnecessary litigation. And there's been also no effort to repeal this prohibition from our criminal code. How much sense would it make to say religion shouldn't be a protected class, or race shouldn't be a protected class? What if somebody brought a floor amendment here, and our friend who brings the floor amendments is not here today, and I'm not in the mood, so I'm not going to do it either, but what if somebody brought an amendment to repeal religion or race or gender from our anti-discrimination statutes? Nobody would support that here, because we all over time understand in history and in context of progress and social norms that that's not what we stand for. Government can absolutely get in the way of things. I believe in government overreach. I think that that definitely happens. I think it happens when we go into people's bedrooms and to people's private lives and we police what's going on between their legs. I think that's an example of government overreach, because none of that has anything to do with somebody's ability to do their job. So as long as government is preventing people from doing their job and having a job and earning a honest living by not passing this kind of ordinance, because we know that this discrimination is occurring and that people have no legal recourse to fight it, that to me is government overreach, that's what that means. I spoke to a constituent just a couple of minutes ago who reached out to me who is a business owner in our state. And they have a LGBT child and they are strongly considering moving out of Nebraska. And they reached out to me and I didn't really want to leave the conversation, honestly, you know, this is interesting to me. But this is one of my voters and this is somebody in Nebraska, this is somebody who has created jobs, who is contributing to our economy. When you see all those lists, ten best places to work, ten best places to raise a family, do we deserve to be on those lists as a state, when it isn't the best place for everybody. If it's not the best place for that family in District 8, I don't think we deserve to be on that list. I don't think that's right. I don't think that's fair. I also got a letter in the mail from a young man and he says-- this was after my committee hearing on my bill to ban conversion therapy in Nebraska. And conversion therapy is the debunked practice of trying to change somebody's

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sexual orientation through therapy, which is not therapy, I hate to even use that word. But this man sent me a letter: Senator Hunt; Last Thursday's Judiciary Committee hearing was a monumental day for me. It was tiring, it was emotional, it was hard--

FOLEY: One minute.

HUNT: Thank you. --and it's the first time I said I'm bisexual publicly. I don't think you were there for it-- I think I was-- but I said so during my testimony on LB627, which was very personal for me. I can't say that I ever could have said that without LB166, [LB]167, [LB]504, [LB]627, I can't say that I would have done that without you. It was so courageous and inspiring. He goes on to say: Senator Chambers used to be my sole inspiration in government. Nothing I say can adequately express my gratitude for leaders like Senator Pansing Brooks, DeBoer, Morfeld, Chambers, and you. Thank you for helping me live honestly. I will find the data and the metrics 'til kingdom come, 'til the cows come home. You won't be able to swing a cat without hitting a metric showing why this matters to people and why this is going to keep people in Nebraska. But these anecdotes about people's lived experiences, those are important, too.

FOLEY: That's time.

HUNT: Thank you, sir.

FOLEY: Thanks, Senator Hunt. (Visitors introduced.) Continuing discussion, Senator DeBoer.

DeBOER: Good morning, colleagues. After listening to debate-- the debate yesterday, I wanted time to reflect and consider before I made these remarks today. So, I went home last night and I thought and I read, and, yes, I even prayed. If I look a little unkempt today, please excuse me, because I didn't get a lot of sleep. What I was wrestling with is the concern expressed by some of my colleagues that this bill would infringe on constitutionally protected religious activity. I wanted to make sure that I considered every angle. I wanted to make sure I was really listening to my colleagues and to my constituents, who express similar concerns. I appreciate you raising your concerns, all of you, because I feel very strongly about protecting religious liberty. And then, as the only member in this body as far as I know with extensive training in both theology

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and the law, I felt I had a duty to speak to these concerns. I want to unpack the concerns I heard yesterday. And if you would like to follow up afterward, if I don't get to everything that you raised, please let me know, I will talk through what I can. So the first thing I considered was the language of the bill. So far as I can see, the bill does not affect religious thought in any way. A person can hold beliefs about marriage and sexuality however they want. They can, under this bill, think and believe, they can even stand on a street corner and yell whatever they want. The bill does not prohibit or purport to prohibit religious thought. So actions: the actions the bill proposes to affect are hiring and firing decisions. Now, I admit, when I think of hiring and firing decisions, those seem like very secular activities. When I think of religious practice, I think about things like praying, attending worship, abstaining from certain foods and drinks, helping the poor and disenfranchised, but hiring and firing doesn't immediately come to my mind. But that's okay. It's not up to me to decide someone else's religious practice might be, but I want to be absolutely clear. The argument is that hiring and firing decisions are part of someone's religious practice. It's not just that, but the religious practice is hiring or firing based on beliefs about someone else's action. So the religious practice potentially being infringed on is firing someone because they are, in this argument, violating your religious beliefs. And specifically violating them in a particular way, right? We're not talking about taking the Lord's name in vain, dishonoring your parents, not failing to give away your excess belongings, it's a very specific thing. Which again, government is not in the business of telling you which things to focus on within your religion. So now in my analysis, and I may have gone wrong somewhere; and, colleagues, help me if I have, the religious practice which is potentially being infringed is hiring or firing or failing to promote someone because they violate your beliefs of how they should act under your religious teachings. I guess I would describe it as a kind of evangelism, a belief that your practice requires you to make the rest of the world godly by any means you have. I would note we've been concerned when other religions have tried to force themselves on us. So now the next question is, if this potential interference with practice is constitutionally prohibited? The constitutional protections of religion under the first amendment--

FOLEY: One minute.

DeBOER: --are very broad but not absolute. You cannot act any way you like because you claim it is a religious belief. For example, if someone sincerely held religious belief where that women

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should not speak in religious meetings, I would disagree with that, but I would fight for their right to believe it, teach it, etcetera. But now if their belief were that women shouldn't speak in religious meetings and if they do they should be beaten? Once again, I would defend your right to believe that, preach that, etcetera. But if you beat a woman because of your belief, it is assault. Constitutional protections are limited. Arguably, even the woman could beat herself, but when it affects someone else, it isn't the same question. Now, I know one of the other concerns people have is about whether or not religious institutions are going to be able to continue to make employment decisions based upon their beliefs. And you heard yesterday that the Supreme Court case of Hosanna-Tabor and the ministerial exception correctly protects religious institutions--

FOLEY: That's time, Senator.

DeBOER: Thank you very much.

FOLEY: Thank you, Senator DeBoer. Senator Morfeld.

MORFELD: Thank you, Mr. President. Colleagues, I want to touch on a few different points that were brought up. Another point that Senator Albrecht brought up was this could stifle employment progress. I would be interested in hearing how or what the statistics on that is. I have not seen one study or one instance where someone has said, hey, because my work force is broader now, I suddenly have stifled my employment in the state of Nebraska. In states that have passed these laws, you haven't seen employers leaving because they have to hire gay people. That doesn't even make sense. Further, Senator Ben Hansen noted that businesses have an obligation to follow the law. But then also said that it shouldn't be government's business in getting in the way of business. Well, we have a marketplace and we have a regulated marketplace for a reason. And when you avail yourself of the marketplace, you avail yourself of the laws that you have to follow and abide by in that marketplace. Now, if I just have my home, I can choose who I invite in my home and who I don't invite in my home, that's fine. But the minute that I start charging people to be in my home and start making money off that, I have to avail myself of the laws that regulate the commercial marketplace. And, yes, you don't have the same fundamental rights when you avail yourself of the marketplace as you do if you're just going about your own private business. In addition, people have brought up rankings on the floor, I think Senator Geist

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did, a few other people brought up rankings and we often talk about rankings, making sure that Nebraska is open for business. And sometimes the solutions, quite frankly, are very expensive, hundreds of millions of dollars. In fact, I'm supporting a bill that re-ups the Nebraska Advantage Act, essentially, of Senator Kolterman's, that will cost a lot of money, and I support that legislation. You know what doesn't cost any money? Passing this bill. You know what's considered in the rankings? Bills like this, and positively. Just look at the CNBC Web site. Quality of life, 300 points for their ranking. One way to attract qualified workers is to offer them a great place to live. We score the states on livability including several factors such as crime rate, quality of healthcare, the level of health insurance coverage, and the overall health of the population. We measure inclusiveness by looking at statewide anti-discrimination protections. There you go. This is a very cost-effective way to increase our rankings and to make it known that Nebraska is a place that's open for business of all people. You want to look at statistics with discrimination? I can note some, and I'll send them to Senator Hansen along with the citations, 1 in 4 LGBT employees report experiencing employment discrimination the last five years. The transgender unemployment rate is three times than that of the national average. Over one-quarter of transgender people who held or applied for a job in the last year reported being fired, not hired or denied a promotion due to their gender identity. This is based on government information. The statistics are clear. The facts are out there. There's discrimination. And the facts also state that Nebraska is increasingly losing and not being able to retain and attract a work force that is competitive that can meet all of our businesses' needs. That's one of our number one problems. Yeah, property tax might be a problem, too, but that doesn't mean we don't have a multitude of problems that we have to address. And quite frankly, we might be able to address the property tax problem if we have more business coming to the state, more revenue coming in the state, so we can provide more property tax relief. So you want to solve property tax? Well, let's bring more people in here. Let's make our state more economically vibrant. I bet if I got up on this floor and started asking people to yield to questions again, most people would say, no, I don't think you should be fired for being Christian; or, no, I don't think that you should be fired--

FOLEY: One minute.

MORFELD: --for being married to somebody of the opposite sex. Or, no, I don't think you should be fired for being a heterosexual male. There would be a lot of people in this body

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looking for employment if that was the case. Colleagues, this is commonsense legislation that's been passed in many different jurisdiction, including jurisdictions in this state. It's time that we pass LB627. And it's time that we bring meaning to the words "equality before the law." Thank you, Mr. President.

FOLEY: Thank you, Senator Morfeld. Before proceeding with the debate, items for the record, Mr. Clerk.

ASSISTANT CLERK: Thank you, Mr. President. Your Committee on Enrollment and Review reports LB4, [LB]4A, [LB]103, [LB]185, [LB]372, [LB]406, [LB]450, [LB]450A, [LB]622, and-- all placed on Final Reading. Your Committee on Government reports LB9, [LB]148, [LB]411, [LB]447, and [LB]505 all placed on General File, some with committee amendments. Natural Resources reports favorably on appointments to the Natural Resources Commission. Natural Resources reports LB374 to General File with amendments. I have notice of committee hearing from Natural Resources Committee. That's all I have at this time.

FOLEY: Thank you, Mr. Clerk. (Visitors introduced.) Continuing discussion on the bill, Senator Bolz.

BOLZ: Thank you, Mr. President. I appreciate some of the discussion and dialogue on the floor this morning about making data-informed decisions. The policy analyst in me is pleased by having those conversations. So I wanted to share some of the information that I have available to me in answer to some of the questions that have come up on the floor this morning. Senator Clements, are you still on the floor? Senator Clements, will you yield to a quick question?

FOLEY: Senator Clements, will you yield, please?

CLEMENTS: Yes.

BOLZ: Senator Clements, you're a banker by trade, is that correct?

CLEMENTS: Yes.

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BOLZ: Are you familiar with the Prudential Insurance Company?

CLEMENTS: Prudential? Yes, I have heard of them, yes.

BOLZ: Very good. They have a good reputation in your field, is that fair?

CLEMENTS: Yes, one of the larger insurance companies in the country.

BOLZ: Very good. In all sincerity and genuineness, I wanted to respond to-- thank you, Senator Clements-- I wanted to respond to one of your questions about the impact and the data behind whether or not these issues are related to economic opportunity. I think I heard you saying that some of the protected classes that we currently have are those who are denied economic opportunity. And according to a report by Prudential, LGBT households would certainly fall into that category. The report, which was provided in 2016-17 found that financial situations among the LGBT population, that they face income gaps eliminating their ability to prepare for the future, that those income gaps are linked to both gender identity and sexual orientation, and that LGBT respondents show signs of feeling financial stress that are related to their access to employment and their assurance of spousal benefits. So, I'll provide this report to you, Senator Clements. I think it is a good one, and I think it proves the point that we should, in fact, consider LGBT folks those who need protections for employment-related circumstances. Is Senator Hansen still on the floor? Senator Ben Hansen. Senator Hansen, I appreciate that you are both a chiropractor and own your own business, is that correct?

FOLEY: Senator Ben Hansen, would you yield, please?

B. HANSEN: Yep.

BOLZ: That's correct?

B. HANSEN: Yep.

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BOLZ: Thanks. And you asked a fair question, you asked, actually, a very good question, which is, is there any data behind these arguments that say is this impacting our ability to recruit and retain talent? The Omaha Greater Young Professionals group did a survey in 2015, and I think they've done more frequent surveys, but this was the survey in my file. And their second priority among their list of priorities is the priority to develop a platform to facilitate and promote inclusivity and diversity across the greater Omaha community. Those surveyed who are Omaha young professionals between the ages of 20 and 40 rank second among their values diversity and inclusion. And so I do think that what young professionals in our state are, in fact, telling us is that when they're thinking about where to build their careers and their professional lives, inclusivity and diversity and a value for those things is, in fact, at the top of the list. I also wanted to provide some information about recruitment and retention. And as I mentioned on the floor a couple of days ago, one of the places we can look to for experience is our military. And recently our military changed their policies to become more inclusive of our LGBT brothers and sisters. And I think it's worth pointing out that self-identified lesbian or bisexual women serve in the military--

FOLEY: One minute.

BOLZ: --at disproportionally high rates; 10.7 percent of women in the military versus 4.2 percent of the general population. So even in a really tough job like the military, when we are more inclusive, we have more representative folks and more folks who want to come and serve in that hard work. The last point that I want to make with my remaining time is that I appreciate this data-driven analysis of these issues. However, the lack of data on LGBTQ workers poses challenges for measuring progress. They're not always equally represented in our census data or in our employment data or in our survey data because of discrimination. So those of you who are seeking more data and seeking more information, equality is one of the ways that we can make our data more available, because if you cannot disclose who you are and who you love, you can't be counted and represented. And so that's one--

FOLEY: That's time, Senator.

BOLZ: --of the many reasons I support LB627. Thank you, Mr. President.

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FOLEY: Thank you, Senator Bolz. (Visitors introduced.) Continuing discussion on the bill.
Senator Cavanaugh.

CAVANAUGH: Thank you. I rise today in support of LB627. I know that there's been a lot of things said today and yesterday in regards to this bill. And I had a lot of things that I wanted to say, and a lot of them have already been said. So first, I'm going to start with acknowledging that my staff represent the LGBT community, and I'm proud to have them on staff, and it's irrelevant to the work that they do. They're wonderful, delightful, hardworking, passionate human beings, and I couldn't be prouder to have them in my office every single day. And I stand here today to speak on their behalf and to speak on behalf of all those that don't get to stand up at this mike. I'm Catholic, as I think many of you know. I'm one of eight children. I went to Catholic school for grade school. I went to Catholic school for high school. I went to the University of St. Thomas for college. I just recently realized that Father Joe who is the-- sorry, Bishop Joe in Grand Island was my pastor growing up. So I'm very passionate about being Catholic. It is how I identify myself. And so I have spent some time looking at this from that perspective, from that religious perspective. And it is with great disappointment that I hear people using my religion as a means for hate. If you look up the Catechism, the Catholic Catechism, for those of you who don't know, is a document that the Catholic Church put together several decades ago so that we could reference it to help us understand the teachings of the church more readily. And with respect to the LGBT community, the Catechism says they must be accepted with respect, compassion, and sensitivity. Every sign of unjust discrimination in their regard should be avoided. This bill is to work against unjust discrimination. And every single person that stands up here and says that this bill isn't needed, your privilege is showing. Your white, male privilege is showing, and I am angry and I am sick of it. You can read the "Lincoln Journal Star," and you can understand what it means to have 14 women, 14 new voices here. You should start listening to us. You need our compassion. You need our love to make this state better. And you need to start listening to us. This is atrocious. This is disgusting. There is no reason in the world that we shouldn't pass this wholeheartedly, 100 percent! History will not look kindly upon you, gentlemen. History will not look kindly upon you. There is no room for hate in this state. There is no room for hate in my heart. I love everyone in this room as God's child. I love everyone in this room equally, no matter who you love. It is irrelevant. There is no reason for this. So I ask you all to look deep inside and wonder why you want to hold on to hate. Why you want to give

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people the opportunity to fire somebody because of hate. There is no reason for this. Ladies and gentlemen, I ask you to vote in favor of LB627. It is time to end this ridiculous conversation about work force and whether or not people can hire or fire employees. You can hire a bad-- a good employee; you can fire a bad employee. Nobody is forcing you to keep a terrible employee on the books just because they're gay. We're just saying you can't fire them because they're gay.

FOLEY: One minute.

CAVANAUGH: You can't fire me because I'm pregnant. You can't fire me because I have ovaries or a uterus, or to quote Senator Blood, a vagina. And you shouldn't be able to fire somebody because of who they love. I would like to end by saying that today I rise for my cousin, I rise for my friends, I rise for my colleague, and I rise for Patty's son, because I'll never tire of hearing about how much his mother loves him and what she would do to make sure that he is treated equally under the law. Thank you. I yield my time to the Chair.

FOLEY: Thank you, Senator Cavanaugh. Senator Blood.

BLOOD: Thank you, Mr. President. Fellow senators, friends all, regardless of who you are and who you love, I stand again in support of LB627. And I thank Senator Cavanaugh, because she already brought up the Catechism, which I have written on my page today, because I think that people have-- are getting the wrong impression what the Catholic faith is about, and I find it very curious that the local Catholic commission is coming out against this bill. In fact, I got an email right before Senator Cavanaugh spoke in reference to anti-Christian bigotry. I'm going to go back and address that. But I want to remind you of what I said yesterday. And I want to thank Senator Ben Hansen-- we always have to say the first name now since we have more than one Hansen-- for actually listening to what I said yesterday. You are listening to the debate. We have so many people that are not on the floor right now doing that because they've already made their minds up, and I think that's very unfair. Because it is true, this bill is keenly about parity. It's not about theology. It's about human rights. And if anybody can stand up at this mike and tell me that there is anybody on this planet that doesn't deserve to be treated fairly and be treated the same as me, I'd be sorely disappointed in that person, and that person's soul, for those that believe in Christianity. And I want to talk about that. I can't talk about the Catechism now, because Senator

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Cavanaugh did a good job about that for me, because I agree with you. Who I am as a Catholic is very different than what I'm hearing on this floor. I would ask that Senator Cavanaugh yield to a question.

FOLEY: Senator Cavanaugh, would you yield, please?

CAVANAUGH: Yes.

BLOOD: Senator, who would you say Pope Francis is in our faith?

CAVANAUGH: He's the leader, the infallible leader of our faith.

BLOOD: And so when he speaks, should his words be listened to?

CAVANAUGH: They should be treated as though they are God's words.

BLOOD: So I found a quote from the Pope that says: It doesn't matter, God made you like this; God loves you like this. Do you remember that quote?

CAVANAUGH: I do.

BLOOD: And so, as a Catholic, since it's been brought up so many times on the floor today, how do you interpret that?

CAVANAUGH: That everybody is made in God's image, and should be loved the same.

BLOOD: And should be loved the same. Thank you, Senator Cavanaugh. I appreciate that. Senator Pansing Brooks, would you yield to a question?

FOLEY: Senator Pansing Brooks, will you yield, please?

PANSING BROOKS: Yes, I will.

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BLOOD: Would you say that the LGBTQ community is any different than the people sitting on this floor here today?

PANSING BROOKS: No, I don't.

BLOOD: Would you say that this bill is about human rights?

PANSING BROOKS: It is about people's human and civil rights, yes.

BLOOD: Do we currently protect religion?

PANSING BROOKS: We do. They fought for years to get protections. And we now rightfully protect religions from being discriminated against.

BLOOD: So those that are saying that this bill is an anti-Christian bigotry bill are really making hypocritical comments because they're already protected, right?

PANSING BROOKS: They are protected. And it's amazing to be using the exact same law to use as a sword against others now that they have their protections.

BLOOD: Thank you, Senator Pansing Brooks. I can't stand here and not support this bill, because I love my fellow man, woman, however they identify, because, as a Christian, since we continue to bring this up, we can't think otherwise. I'm disappointed in this push by the local Catholic Church--

FOLEY: One minute.

BLOOD: --against this bill, because this is not what the Catechism teaches me. This is not what the Pope says when he speaks to his people. But you take my religion out of it, I can't look anybody in the face and say I don't support this bill, because it's the right thing to do. And let's get, again, theology out of this. Let's go back to what this is truly about, human rights, parity, doing the right thing, and for once being a leader instead of a follower. Nebraska needs to step up

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to the plate, put on its big-boy pants, support this bill, and move on, because we have a lot of other bills to vote on. Thank you.

FOLEY: Thank you, Senator Blood. Senator Lowe.

LOWE: Thank you, Mr. President. I rise today to discuss a few points that have been brought up. Most of them were brought up yesterday, not so much today, but it was brought up yesterday. One major argument I hear on this bill is it is economic development and a job creator. Creating an atmosphere that encourages economic development is a very important role of our state government. There are a number of ways to go about this. But some of these strategies can have bigger impact than others. Tax policy is a huge factor. We all know the impact of income taxes, sales taxes, and property taxes for sure have on influencing our economic development. It is unfortunate that we have not done more to address these factors. Another way to encourage economic development is to cut back on regulations. Some of these measures are more successful than others, but it is a worthwhile event. While I have been here, one of the more extensive examples of this policy were the efforts to produce occupational licenses. I was proud to carry one of these bills that reduced licenses, and I'm proud to have voted for many others over the last three sessions. As I mentioned previously, last year I had another bill that would have positively adjusted regulations. LB921 would have made changes to the number of apprentices that could be overseen by an electrician. This bill was important to me because we are quickly approaching the time when we have more jobs in this state than adequate personnel. Sadly, we did not advance this bill, and I fear worker deficit on these projects currently face will only increase without it. Many of the people talking today were the ones fighting economic development in the last two years. Of course, there are a number of other ways that the state government can help create conducive climate for economic development, both by recruiting new professionals to the state, and helping to make the state an attractive place to stay. I want to touch on one more thing we heard yesterday of many businesses in Nebraska who are enacting policies of their own volition similar or identical to those in LB627 which seeks to mandate to businesses. Businesses often self-regulate on such matters without the need for government involvement. I would like to repeat that. Businesses often self-regulate in such matters without the need of government involvement. We don't need to do this. Businesses are already doing this. I'm a firm believer in the market forces, and I suspect that these efforts will become more

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common if businesses find them to have a positive impact. Companies have previously enacted policies in other areas which have been argued to be in need of government mandate such as climate concerns and social justice issue--

FOLEY: One minute.

LOWE: Thank you, Mr. President. --in terms of potential economic benefit, I think it is likely that the market will respond without the need for government involvement if such policies would be economically beneficial. Businesses will handle this on their own. They don't need us to pass laws telling them what to do and what not to do. At the end of the day, there are a number of ways to address economic development: job creation, and encouraging companies and people to move to Nebraska. I have introduced some legislation to that effort and I have spoken strongly in favor of others. Unfortunately, I'm not convinced that LB627 has the potential to accomplish as much as some other ideas as it concerns economic development in Nebraska. Thank you, Mr. President.

FOLEY: Thank you, Senator Lowe. Senator Hilgers.

HILGERS: Thank you, Mr. President; good morning, colleagues. I rise to touch on a point raised by a couple of my esteemed colleagues and friends, who are also attorneys, Senator Matt Hansen and Senator Morfeld. I have been listening to the debate this morning and I think both of them referenced the fact that they're attorneys and made some point, and when they said that my ears pricked up a little bit and I wanted to provide the body with at least some of my background and experience on one particular point that has been discussed, but to some degree glossed over. Senator Hansen, and he and I had a great conversation off the mike and talked about this. I think to some degree Senator Morfeld made the same point. But it's really this point of whether or not a frivolous lawsuit is a real concern and is it a concern today. I think Senator Matt Hansen made the point of saying, look, if someone wants to make mischief or wants to file a suit, they can do it today; they could file a frivolous suit today. And that is undoubtedly true. Someone can file any suit that they would like to file. But it doesn't really work the same way when you don't have a specific cause of action like-- that-- that is contained within LB627. So, one example might be if an employee said, well, I want it today, I want to sue my employer because they didn't pay me.

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Well, that's something that's pretty readily provable, pretty readily able to show that it's frivolous, and something that can be resolved pretty quickly, and I think, generally, doesn't quite happen. I think in the discrimination context, it is a little bit different. I think this has been borne out at the federal level; and in the state level and other context. And that is that it is easier to get past what we call the Rule 12 stage. And the Rule 12 stage is just the first stage-- the first opportunity for someone to dismiss a frivolous lawsuit. So, you file your complaint, you say my employer didn't pay me my money, he or she took from me, and that's my complaint. And the employer can say, no, no, no, that doesn't-- that didn't happen, it didn't meet the particular threshold. And the court can dismiss a frivolous case at the outset. And discrimination is a little-- it doesn't quite work the same way, in part because of the nature of those type of claims. They tend to be a little bit more-- they can be, not always, certainly-- a little bit more he said, she said; he said, he said. And it is easier to get past the Rule 12 stage. So to the extent that that's a data point for people to consider in this debate, and certainly I've listened to my colleagues, Senator Blood and Senator Hunt, Senator Pansing Brooks, Senator Cavanaugh this morning and others, I know that that's not a point that will sway you, I understand that and I understand your perspective. But there are others on the floor today who might think that for instance that we should treat people equally, but may have some skepticism that government action and creating causes of action can solve the social ills that we wish to solve, who might, generally, have that skepticism who might want to say-- who might want to weigh that and may ask the question: Can you actually file a frivolous lawsuit, and would this bill change someone's ability to do that today or not? I think on balance it does change the-- would change the legal landscape. And to the extent that that's a relevant consideration for you, I wanted to make sure that the record was clear and that that additional context was laid. With that, Mr. President, I'd yield the rest of my time to Senator Slama.

FOLEY: Thank you, Senator Hilgers. Senator Slama, 1:50.

SLAMA: Thank you, Mr. President. I've heard many references today to young people in the state and the perspective of women in this body. I wasn't planning on getting on the mike today, but since we're playing identity politics, I figured as a young female I'd hop on the mike as opposed to having others speaking for me and making assumptions to that end. Would Senator Pansing Brooks yield to a question by chance?

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FOLEY: Senator Pansing Brooks, will you yield, please?

PANSING BROOKS: Yes, I'm happy to.

SLAMA: Great. Thank you, Senator. Would you say that sexuality and gender identity are something, even if it's outside of outward appearance or what society would typically assume of that person, are something that you're born with?

PANSING BROOKS: I do think so, yes.

SLAMA: Great. Thank you, Senator. I appreciate it. Senator Hunt, would you yield to a question?

FOLEY: Senator Hunt, would you yield, please?

HUNT: Sure.

SLAMA: Great. Would you say that gender and sexual identity are something that are fluid, could have some aspects of fluidity and can evolve over time?

HUNT: I think that people, over time, can realize who they are and be more comfortable with that. And a lot of reasons people aren't is because of stigma like that perpetuated by this body.

SLAMA: But you would say that gender fluidity is a truth among some people?

HUNT: Yes.

SLAMA: OK, thank you. So my struggle with LB627 isn't based on any type of religious opposition that's been brought up at a few different points today, but I'm confused as to how an employer is supposed to keep track of all of the different approaches a person can take to getting to their truth, whether they see themselves as they were born this way, or they see their sexuality as evolving; how is an employer supposed to keep track of where every single one of their

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employee is at on that particular day and ensure that their workplace is hospitable to identities that the employer may not even be aware of at that point in time. So thank you, Mr. President.

FOLEY: Thank you, Senator Slama. Senator Murman.

MURMAN: Thank you, Mr. President. Good morning, colleagues. I, again, stand in opposition to LB627. I would just like to share a e-mail I got from a constituent in the district that I think represents many in the district very well, and also the same beliefs and ideas that I have. Dear Senator: Under LB627, in addition to creating a statewide protected class for sexual orientation and gender identity in employment, the first section of the bill expands the ability of all cities and villages to regulate discrimination based on sexual orientation and gender identity in public accommodations, not just employment. This creates a host of problems and unintended consequences. This proposal undermines constitutional freedoms, targets small businesses, threatens women's equality and privacy, and empowers the government to punish people of faith for their religious beliefs on marriage and sexuality. We all agree that arbitrary discrimination is wrong. Unfortunately, as we have seen across the country, laws like LB627 are used as a sword against people with traditional understandings of marriage and sexuality, rather than as a shield against actual discrimination. Under this legislation, Americans who gladly serve everyone face lawsuits and government fines because they decline to participate in an event or create a specific message which conflicts with their beliefs. Just like every person should be treated with dignity and respect, no person should be forced to promote a message or participate in an event in which they disagree. In addition to requiring individuals and organizations to speak or act contrary to their convictions on topics of deep significance to most Americans, these proposals require sex-specific facilities like women's locker rooms, showers, and rest rooms to admit individuals in accordance with their chosen gender identity. Such coercion has already happened to individuals and organizations, including adoption and foster care providers, women's homeless shelters, and religious schools. But diversity of thought and the ability to disagree should not be subject to government punishment. First American freedom should not be compromised by laws that empower the government to unfairly coerce those with whom it disagrees. Every American should be free to live and work according to their faith without fear of unjust punishment by the government. Citizens should not be forced to express their ideas or celebrate events that violate their beliefs. Laws that single out and punish citizens on the basis of their peacefully expressed

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beliefs should be rejected. These laws take away constitutionally guaranteed freedoms and provoke intolerance toward people who have beliefs different from those in political power. Please don't replace the kindness and tolerance of Nebraskans with an unnecessary government mandated orthodoxy. And I would like to just add, we've talked a lot this morning about the brain drain and young people moving-- leaving the state. I know of young people who have actually returned to the state in large part--

FOLEY: One minute.

MURMAN: Thank you. -they lived in California and they returned to the state in large part because of the unnecessary laws and government overreach and over-regulation in California. So, I don't want to put down California, but people are moving back to Nebraska because of our conservative values. Thank you.

FOLEY: Thank you, Senator Murman. Senator Lathrop.

LATHROP: Thank you, Mr. President; and colleagues, good morning once again. I started out my law practice in kind of a general practice, as some of you may know. And in my earlier years, I had occasion to defend some discrimination cases, so I know a little bit about that litigation. And more recently, last 25 years, I have limited my practice to representing people called plaintiffs--those that bring lawsuits. And I want to talk for a second about frivolous lawsuits, because frivolous-- the idea that people are going to bring a frivolous lawsuit, let me tell you what that requires, OK? If you want to bring a lawsuit, first thing you've got to do is go get yourself a lawyer. OK? Lawyers that take these types of cases, like me, they work on a contingent fee. Let me tell you what that means. That means when somebody calls me on the phone and they go: I have a grievance and I want to bring a lawsuit against x-- whoever that-- if it can be a company or and insurance company or another individual, they go, I want to sue this guy, because I've been wronged. My first question is: Well, tell me what happened-- because I want to make sure that there is some liability there or some basis for a lawsuit, and tell me what your harm is. Now, when they go: You know, the guy across the street walked across my lawn. I'm, like, oh, well you might have a claim, but you don't have any damages, so no thanks. Like, I am not going to take plaintiffs' lawyers, people that handle these type of cases are not going to

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take a frivolous one, because I'm not going to invest the resources of my firm and my own time in something that's going to result in no recovery. Why? Very selfishly, I will never get paid for it. So I'm not-- lawyers don't take frivolous cases. They don't. It's a talking point that went around during tort reform, and it still lingers today as oh, my god, somebody can bring frivolous claims. No, they can't. Maybe over in small claims court where they can't bring a lawyer with them, but this is a process our system sorts that out, because the lawyers that handle this don't make these people pay an hourly rate like the corporations do, they work on the basis that there will be a recovery and their fee will come out of the recovery. That's the first point I want to make. The second, let me talk to you about a discrimination case, what happens when someone files a discrimination case. I think I've got a legitimate case. How's that going to go? What's the process in a big-picture way? I allege that I was not hired because I am gay. I applied for a job at a company, and by god, they didn't hire me, I am gay, I told them that during the interview, and they didn't hire me, so I want to sue them. You file your lawsuit. Guess how it goes? It starts out with the plaintiff must show that they're a member of a protected class: I'm gay, or if it's any one of the other protected classes, but let's use gay. Then the employer says: This is my legitimate business reason for not hiring him. I needed somebody with a degree in engineering, and this guy rolled in with a degree in marketing. Oh, I have a legitimate business purpose. It's done. It's over with. They have a legitimate business purpose. The plaintiff, after the employer offers a legitimate business purpose for the decision, the plaintiff must then prove that that's a pretext.

FOLEY: One minute.

LATHROP: That's not even true. That's not why. So how's that done? They go in, and they have to demonstrate a pattern or practice of discriminating against people in that class. You don't show that and you're done. And, by the way, guess who decides these things? It's not some crazy left-wing person that listens to these cases. It's 12 of your peers, 12 people; they sit in a jury box, they listen to the complaint, the reason given by the employer, and any other evidence that might show it's a pretext, and then they make a decision. These folks deserve the protection. They are being discriminated against. It does affect whether young people are going to stay here. I can tell you, my daughters-- my daughters are in that age. Their friends are leaving Nebraska. And maybe they're leaving for the mountains, maybe they're leaving for the ocean, maybe they're leaving for--

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FOLEY: Time, Senator.

LATHROP: --more cultural things, but this is part of it.

FOLEY: That's time, Senator.

LATHROP: How we treat young people. Thank you.

FOLEY: Thank you, Senator Lathrop. We'll pause our debate for just a moment. Items for the record, Mr. Clerk.

ASSISTANT CLERK: Thank you, Mr. President. Priority bills: the Government, Military and Veterans Affairs Committee designates LB411 and [LB]511 as the two committee priority bills. Senator Matt Williams designates LB463 as his personal priority bill. And additionally, LR38, introduced by Senator Gragert congratulations the Wynot High School girls basketball team and its coaches on winning the 2019 Class D-2 Girls State Basketball Championship. That will be read and laid over. That's all I have at the time, Mr. President.

FOLEY: Thank you, Mr. Clerk. Continuing discussion, Senator Pansing Brooks.

PANSING BROOKS: Thank you, Mr. President. First off, I think that Senator Slama wanted to play some gotcha politics and by asking me whether or not, you know, I believe this is something that people are born with. And then she asked Senator Hunt about gender fluidity as if this was some big proof, because you can't be born with a fluidity. So to me, if we're going to start playing gotcha politics, Senator Slama, bring it on. So the next thing I'd like to talk about is Senator Lowe mentioned that we don't have enough jobs, so there's no need to encourage the LGBTQ people to stay here. That's just-- I don't even understand that argument. You know, clearly the big cities are-- and out in the western part of the state, they're trying to get Google and other companies to come, because, of course, with the companies come employees, come taxpayers, come people to help with all the property issues that we're having. So, Senator Ben Hansen asked about some of the facts. There's a source called "Out and Equal," and their statistics and research shows one in four LGBT employees report experiencing employment

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discrimination in the last five years, one in four. That's 25 percent. The transgender unemployment rate is three times higher than the national average rate. Don't even get me to the suicide rate. Over one quarter, 27 percent of transgender people who applied for a job in the last year reported being fired, not hired, or denied a promotion due to their gender identity. More than three-quarters of transgender employees take steps to avoid mistreatment in the workplace. Nearly one in ten LGBT employees have left a job because the environment was unwelcoming. Fifty-two point eight (52.8) percent of LGBT employees report that discrimination negatively affected their work environment. I mean, the statistics are all out there, they're voluminous, I can get you these copies. The majority of Americans, 67 percent, support the laws protecting transgender and LGBT people from discrimination. As far as the employees go, in 1996, only 4 percent of Fortune 500 companies included sexual orientation in their non-discrimination policies, 4 percent. Today, 92 percent of Fortune 500 companies welcome lesbian, gay, and bisexual employees with inclusive policies that protect against discrimination based on sexual orientation. But don't worry, you all know, you're going to have so many more lawsuits. Those Fortune 500 companies, they're just wanting and asking for lawsuits. For the transgender employees, in 2002, just 3 percent of Fortune 500 companies had non-discrimination protections that included gender identity. Today, 82 percent of Fortune 500 companies include gender identity and nondiscrimination policies. So again, these arguments are just bogus. And I will now give the rest of my time to Senator Morfeld.

FOLEY: Thank you, Senator Pansing Brooks. Senator Morfeld, one and a half minutes.

MORFELD: Thank you, Mr. President. Thank you, Senator Pansing Brooks. I want to respond to Senator Slama's comments about how are employers supposed to keep track of all this. That's the whole point; you shouldn't be keeping track of all this. Why should you be keeping track of who somebody goes home to at the end of the night, after they've worked a hard day's work for you? You know what else is fluid but also protected currently under law? Religion, marital status. You can't fire or hire somebody based on religion or marital status. But you can change your religion and your marital status. There's many people in this body who I know have changed their marital status. But yet you can fire somebody simply because they're gay and how they were born? It makes no sense. These are not factors that should be taken into consideration as an employer. I probably employ more people than anybody else in this body, and I deal with all kinds of

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employment issues, but I'll tell you that I've never dealt with one like this because we judge people based on their work ethic, not who they love, not who they marry, not who they go home to. There are all kinds of fluid protected statuses currently in statute. That is a ridiculous argument. Colleagues, let's pass LB627, put this to rest. Thank you.

FOLEY: Thank you, Senator Morfeld. Senator Groene.

GROENE: Thank you. I hesitate to stand here because this is one of those issues I just don't get. I've evolved so far past this. I-- for my religion, I studied the word. Finally caught it one day after years; the book isn't about your flesh. When you hear somebody says I've got cancer, I've got this or that; it's not about your flesh. Christ, the apostles, nobody has ever defined or described in there. It's about your soul, folks. It's about your spirit. I don't understand people who define themselves by their flesh. They just don't get it. I will never do that to anybody. I define you by your character, by your work ethic, by your intellect, by the way, if I hire you. I don't care. Bigots describe people by the flesh in law, not Christians. By the way, unlike the tourism bureau of this state, Nebraska isn't for everybody. North Platte and Lincoln County is. If the bigots in eastern Nebraska are defining you by who you sleep with? We need workers. Come to North Platte. We don't care. Show up for work, have good character, treat your neighbors as you would treat yourself, tell a few jokes, go to the church you want to; some will accept your beliefs, some won't. Choose the one you want to go to. That's freedom. Don't tell the church they have to hire you. Don't tell the religious organization they have to hire you. There are churches for everybody and religions for everybody in America. This is bigotry. I looked up the word "description"-- I mean, "discrimination." Here's what it says, if I can find the paper: To distinguish-- to distinguish one by a characteristic. And then from there: to go forward and to be prejudiced against them. I would be deeply offended if the law said overweight, 6'1" guys with white hair are protected. I wonder if you asked all the people, LGBT, that are successful in life, going about their life, the electrician who did work on my property, the person who details my car and his partner, I will ask them, they're conservatives: Do you want to be distinguished in law that you're different, that you're not the same as me because of your behavior or your choices, of who you love? Back to the spirit. That's another whole argument. That's between you and God, your behavior, and what is acceptable to the god in your understanding of him. But I know this, there is more prejudice out there against people because of law. That guy got the job because it said he's different than

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me. That lady got the job because it said they're different. When you start distinguishing people by behavior, what about hunting? Can Senator Chambers fire somebody because he finds out one of his employees likes to hunt mountain lions? Well, what if they like to hunt pheasants? What if they like to hunt deer? They're all different.

SCHEER: One minute.

GROENE: Where do you stop? I liked the bill we did the other day, Senator Albrecht's: You cannot discriminate. Just leave it at that. Just leave it at that. You talk about alphabets, start looking at some of these discrimination, we've got an alphabet of defining people by their behavior and who they are in their flesh. Get over the flesh, people, and live a life. Live it in the spirit. Amen. Thank you.

SCHEER: Thank you, Senator Groene. Still waiting to discuss in the queue: Senator Matt Hansen, Senator-- it's already been cleared, I'm sorry, Senator. Senator Matt Hansen, Senator Hunt, Senator Chambers-- excuse me, Senator Ben Hansen, Senator Hunt, Senator Chambers, and others. Senator Matt Hansen, you're recognized.

M. HANSEN: Call the question.

SCHEER: Senator, I still have 14 people in the queue, so I do not believe that the debate should end.

M. HANSEN: Move to overrule the Chair.

SCHEER: That's fine. There has been a request to overrule the Chair. Colleagues, as this may be some of your first attempt at overruling the Chair, the process will go as following. Senator Hansen will be eligible to discuss his-- open on his request to overrule the Chair. All members are able to speak once to the motion. You may not yield your time. You can only use your time. And when we are finished with discussion, Senator Hansen will be allowed to close on his motion, and then we will vote. A simple majority will take care of that. Senator Hansen, you're welcomed to open.

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M. HANSEN: Thank you, Mr. President; and good morning, colleagues. So, colleagues, from my perspective what just happened there, as you know, this session and past session Speaker Scheer has implemented a rule where you get three hours of debate before it comes off the agenda. And by my tracking of the debate, we are about 2 hours and 45 minutes, maybe 2 hours and 40 minutes when I got into the queue-- or sorry, when my turn came up in the queue and I spoke to call the question. And the procedure for calling the question is when a senator moves the question, when a senator calls the question, we ask for five hands, and if there are five hands, if there are five hands we go to a vote. And if 25 people vote yes, we end debate and Senator Pansing Brooks, in this case, would get to close on her pending motion. By our standards, that is an opportunity we have and it is normally determined to be left up to the body, because there are two hurdles for a senator who wants to call the question and end debate on a particular motion. One, there's whether or not you can get five hands, which is the equivalent of asking for five seconds. And there is an overall vote of 25. So the majority of the body would have to agree. The reason I called the question this morning was that we were approaching the three-hour cutoff and there has been no motion on this bill. There has been no amendments on this bill. We've had 2 hours and 40 minutes of discussing a single item. Most people in the queue have spoken twice. Many-- I think there are some people with yielding time have spoken multiple times, if not more. We've had a full round of debate, in my mind, over 2 hours and 40-some minutes and that will lead to a final debate on LB627. Having not called the question, we would reach the situation in which we would not be able to get a vote on this bill, which is fine; that is something the body can do if they decide to not accept the call of the question motion. However, that would create a principle where if you have a bill up for three hours and there is no motions, there is no dilatory motion, there's no nothing, there's no committee amendments, there's no multiple questions aside, there's a single up and down vote on the bill, we as a body would be unable to have a vote on it. We're talking-- I was talking with other supporters of the bill and I got asked to call the questions because we noticed in the queue that Senator Groene hadn't spoken and I was the first question after Senator Groene, but before the three-hour window. And therefore, I was-- I was asked to call the question such that everybody who was in the queue had spoken once and many people had spoken twice. I asked to overrule the Chair because in my thought this is an issue that should be decided upon the body. The Chair has the ability to rule my motion out of order or rule that there hasn't been fair and full debate, and that is what, in my mind, for when somebody calls the question say immediately after an opening, or 10 minutes, 15 minutes into debate when there

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is still plenty of people in the queue; not one where approaching the cutoff or approaching a time limit and we're approaching the end of three hours, when we're approaching the end of the discussion, we're going to get on this bill and everybody has spoken who is interested in speaking has spoken twice, or minimum once, if they got in the queue late. I would ask colleagues for you to sustain my motion to overrule the Chair and then to allow us separately, in a separate decision, as a body to decide whether or not to call the question, which will let Senator Pansing Brooks close on her LB627 and then we can take a final up and down vote on LB627. With that, colleagues, I will ask you to sustain my motion. Thank you, Mr. President.

FOLEY: Thank you, Senator Hansen. Senator Ben Hansen.

B. HANSEN: Thank you, Mr. President. This is all new to me, so I just assume I can ask questions like normal to somebody, right? Okay, thank you. I just had a couple of clarifying questions pertaining to this bill. Again, when we make new laws, I like to make sure that they're justifiable, make sure they're needed and I think that's where some of these questions kind of stem from. And so I had a question for Senator Lathrop since he's kind of the legal expert in this matter.

FOLEY: Senator Lathrop, would you yield, please?

LATHROP: Yes, I'd be happy to.

B. HANSEN: Thanks. Just trying to figure out the necessity of this bill. Have there been a lot of lawsuits, maybe with the last five to ten years, that were filed pertaining to discrimination in reference to gender identity? Have there been a lot of people fired due to gender identity?

LATHROP: So, I think they're separate questions. One is whether there have been a bunch of people fired, and the other is whether there has been a bunch of lawsuits. I expect there hasn't been a bunch of lawsuits because it's not statewide, at least, against the law to fire somebody. In Omaha, I don't think they've experienced a large number of lawsuits after they passed that ordinance, or very few claims actually. It sort of begins to guide people's behavior and becomes no problem after a time. On the question of how many people get fired, how many people have

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the terms and conditions of their employment altered on account of their sexual orientation, I think Senator Pansing Brooks probably better answer that than I. That's not my practice area now.

B. HANSEN: OK. I think you cleared-- you're right. You cleared that up for me. I may have misspoke. I meant lawsuits as opposed to firings. So thank you.

LATHROP: There's lots of lawsuits for a lot of reasons, including divorce.

B. HANSEN: Sure. Just a little more specifically like gender identity. Like how many lawsuits have we had recently due to gender identity discrimination?

LATHROP: So where they have an ordinance in Omaha, I don't think they've experienced some explosion of these cases.

B. HANSEN: Sure, that's what I was kind of wondering, so. And I think, one more thing in reference to what Senator Morfeld said, I believe he is correct that it is not, in my opinion, kind of an employer's right to know what people are doing in the bedroom. But I think it does pertain to what's going to happen in the workplace, what kind of behavior action we're making a law for now and what kind of effect that would have in their workplace. And I think that's maybe kind of a little the particular about why maybe an employer might have a vested interest in this bill and the outcome it will have on the workplace where they're at. So, that's all I had. Thank you very much, Mr. President.

FOLEY: Thank you, Senator Hansen. Senator Chambers.

CHAMBERS: Thank you. Mr. President, for once, I'm going to be very brief. I have been in this world longer than anybody on this floor. I have experienced discrimination when it comes to employment. The businesses, they don't solve these problems. There was a restaurant down from Creighton University, when I was a student there all those years ago, which would not serve black students. When I went to Creighton University, they had off-campus housing, but they would not rent to black students. When I went to the president of the university and said, when

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these black people send their children here and they don't have access to all the benefits of the white students, you ought to charge them less in their tuition. And he said, I ought to hit you in your mouth. I said you what? He said, you'd probably hit me back, wouldn't you? I said awfully hard. It wasn't a joke to me. There is discrimination everywhere. Black people could not drive buses. Black people could not work for Coca-Cola. I'm going to tell all you so-called Christians a thing or two. What this bill is, it's a plea for the recognition of people's human dignity, of their humanity. You white men have been blessed, if you want to call it that, with white privilege all your life, so you don't even know what it means to discriminate. You're the ones who do it. I don't see why you want to exclude people from the human family when the Bible that the Christians say they believe in indicated that of one blood God made all men who are on the face of the earth. I'm a person without a corpuscle of religion, but I'm a better Catholic than the Catholics, because I know what they're supposed to believe, but I practice. I'm a better Christian than the Christians, though I don't have an ounce of religion, because I do feel and know that every person is my brother, every woman my sister, and I am my brother and sister's keeper. And all the years I've been in this Legislature, I have worked hard, assiduously for those people regardless of race, religion or anything, because they're human beings and that's what I'm looking at to make sure that they were not discriminated against. I have farmers bring a petition to have me go to Washington and to represent them during the farm crisis. They said I was the only one in the Legislature whose integrity they respected. Those farmers didn't like me. They wanted something. But they also knew the manner of man that I am despite their hatred and the things they say in other situations. I'm going to vote to overrule the Chair. I'm accustomed to casting votes on the short end. But I will tell you all something, because of the course that this bill has taken, the invocation of the constitution to show that people can be discriminated against, the hypocritical plea to religion and invocation of religion to justify discrimination. I never hear any of you talk about your religion when we're trying to get help for the homeless, the sick, the halt, the lame, the ones Jesus was concerned about. I've never heard any of you invoke the constitution to ensure the rights of those you hate would be respected. I don't like what Senator Murman said. I don't know like what-- I don't know that gentleman's name. I don't like what he said. But you let one of them be mistreated and there is something I can do to stop it and I will. You all won't do that. You are hateful people. You're narrow-minded.

FOLEY: One minute.

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CHAMBERS: And you show it. You said time?

FOLEY: One minute.

CHAMBERS: Thank you. I will behave based on my beliefs. My beliefs don't exclude you because you make statements that are simpleminded. I expect that of old white men. The life you live prepared you for that. You all don't realize how bad you sound. And as for Senator Slama, she's not the paradigm for young people. She was appointed by the Governor. She did not win an election. She probably won't win when she runs, because people will see that they need somebody here with more on the ball, more of life's experiences. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Lowe. Senator Lowe. He waives the opportunity. Senator Murman.

MURMAN: Thank you, Mr. President. Good morning, again, colleagues. Again, I want to touch on how much we talk about growing our state in this Legislature. Yesterday, I spoke about the 2018 list of "Forbes" magazine and Nebraska ranks among the top five states, best states for business. The majority of states ranked best for business and economic development do not have these types of laws. This isn't the only place that Nebraska is being recognized. I know this has been said this morning already, but yesterday Governor Ricketts announced that for the third year in a row, Nebraska received the Governor's Cup for having the most economic development projects per capita in the United States. This is something we shouldn't ignore. Our state is growing. Nebraska business owners have the opportunity to hire who they think and would be the best at the job because our Legislature isn't telling us who we can and cannot hire. The language in LB627 wouldn't address widespread problems. Everyone should be treated with dignity and respect. Nebraskans are tolerant and fair minded, and the free market imposes substantial costs on anyone engaged in baseless discrimination. LB627's language would harm economic freedoms because it would require individuals and organizations to speak contrary to their own convictions. This bill undermines the American dream by forcing small business owners to operate against their missions and beliefs. I've got just a few examples here of business owners in the country that have been forced to operate against their beliefs. Just weeks after Jack Phillips, owner of Masterpiece Cakeshop, won a 7-2 victory in the U.S. Supreme Court, which

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wipes away the Colorado Civil Rights Commission's punishment of Jack under Colorado statewide SOGI. The same commission used the same law to launch a new attack on Jack to force him to create a custom cake to celebrate a gender transition. In Washington State, the ACLU sued Barronelle Stutzman and her shop, Arlene's Flowers, under Washington's SOGI because she declined to create custom floral arrangements celebrating the same sex wedding ceremony of a long-time friend and customer whom she had served for nearly a decade. She now faces the risk of losing everything she owns. Telescope Media Group owners, Carl and Angel Larson, are film makers who use the story telling power of film to celebrate marriage. But Minnesota SOGI forces them to create films about marriage that violate their beliefs under threat of civil penalties, criminal penalties, fines, and up to 90 days in jail. An advocacy group filed a complaint under Lexington, Kentucky's, municipal sexual orientation and gender identity laws against Blaine Adamson who owns Hands on Originals, a promotional painting company for declining a request to print a particular design. Blaine serves everyone, but can't print messages that conflict with his conscience.

FOLEY: One minute.

MURMAN: Thank you. Government officials under SOGI laws force churches and faith-based organizations to violate their sincerely held beliefs. Iowa and Massachusetts officials interpreted their state SOGI's to apply to churches, meaning they could be prosecuted for operating consistently with the church's doctrines or for ensuring visitors use sex specific rest rooms and changing areas. Thank you, Mr. President.

FOLEY: Thank you, Senator Murman. Senator Hilgers.

HILGERS: Thank you, Mr. President; good morning, colleagues. I rise to speak on two points, the second of which will be-- actual the question before us which is the motion to overrule the Chair from Senator Hansen. I did want to just briefly follow up on the conversation and dialogue that I was sort of having with Senator Lathrop. He made two points, which I think are good ones and I think are worth unpacking. If you recall when I was on the mike a little bit ago, I made the point that, well look, once you add a cause of action into our statute, it actually increases the likelihood of suits being filed that may not have merit. Now whether or not that matters to you is

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a separate question. But at least on that particular point, I put down on the record that I thought adding a cause of action would increase the potential for lawsuits and maybe meritless one. And Senator Lathrop responded in two ways, and I'll take the second point first. The second point is he said, look, on these discrimination cases, how it works is you make your claim and then the business responds and says: no, no, no, we had a real business reason for what we did, it wasn't based on discrimination. And then if the business shows that, then the plaintiff has the opportunity to show that, no, that's just pretext. Senator Lathrop is absolutely correct, absolutely correct. But I would make two points. The first is, the companies that are able to do the type of documentation that Senator Lathrop describes and that is in law are the companies that are the larger companies with resources, sophisticated HR departments, and the like. Certainly, there are small businesses who have the same capability. But in general, the ones that have more resources are the ones who can make that defense. Smaller companies, fewer resources, less sophistication, generally don't have that same type of a defense that they put forward. Doesn't happen all the time, I'm certainly not suggesting that. But the second point is, and I think it's embedded in this, is that if you even get to the second stage, that means you've gotten past the first stage. And the point that I was making is, when you get past the first stage in a lawsuit, it increases the risk of exposure to the defendant, regardless of the merit, because going to trial puts them at risk, and it increases settlement to avoid that potential exposure, regardless of the merits. So Senator Lathrop is correct to say that this is the way the procedure works, but it only, I think, buttresses the point that I was making which is that if you can get past the Rule 12 stage, the motion to dismiss and the pleading stage, you increase the likelihood of settlement regardless of the merits of the case. So that was the first point he made-- or second point that I took in reverse order. The other point that he made is like, look, I do these type of cases and I do diligence and I make sure that I don't bring frivolous cases. And again, I don't know Senator Lathrop's practice, but I have every reason to believe that's precisely how he's operated for the 30 years or so that he has practiced law. It is not, however, how everyone practices law. And also the nature of these types of cases doesn't always lend itself to determining through due diligence from the lawyer's perspective whether a case is meritless. When you have a "he said, she said," if it's meritless but you have someone claiming something, how are you supposed to know whether or not it's true? Now, some lawyers may say, I don't believe you, I'm not going to take the case 'cause I don't want to put my time into a nonprofitable endeavor that I don't believe in. It's certainly fair. Other lawyers might say, you know, I'm not quite sure. If we can get past this first stage of the case,

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maybe I-- there's a settlement or maybe there could be some resolution that will help you and we don't have to go to trial. I'm not saying Senator Lathrop is wrong on either point. But I'm saying that it's a complex dynamic and when you add a cause of action, it changes the current legal framework that we currently have today with some consequence. Now, whether those consequences matter to you is a separate question. But I think it's important to have on the record exactly what those consequences from a legal perspective might be. On the merits of the motion in front of us, the question in front of us which is to overrule the Chair, I oppose that motion. I oppose that attempt to overrule the Chair. And it's pretty simple, I think, from my perspective. Rule 7 [Section]4 gives the Chair in it's-- in his or her discretion to determine whether or not full and fair debate has-- has-- we've actually had full and fair debate. And it says in [Rule] 7 [Section] 4 the presiding officer--

FOLEY: One minute.

HILGERS: --whether that's-- Thank you, Mr. President-- whether that's Lieutenant Governor or the Speaker or someone else, the presiding officer may rule the previous question out of order if in the presiding officer's opinion a full and fair debate has not been afforded due to the complexity of the subject matter. That's exactly what Speaker Scheer did when he sat in the chair. Now, if we overrule that decision, if we say with 14 people in the queue, 2.5 hours into the debate on a contentious, complex issue that full and fair debate has had, what we will be saying-- we will lay down precedent that in my view will undermine our filibuster mechanisms. Because in any future contentious, whether it's property tax or any other issue that we have before this body where a lot of people want to speak and a lot of people want to be heard, if we can rely on this precedent, if we overrule the Chair, and say, eh, 2.5 hours, we want to get a vote, so let's just forgets about that filibuster rule and let's just get straight to the vote. I understand completely what Senator Matt Hansen was trying to do. I completely understand. And there will be a time where I will be in his shoes, I am sure. However, I don't believe it's the right decision to overrule the Chair and I'd urge you to vote red on that particular motion. Thank you, Mr. President.

FOLEY: Thank you, Senator Hilgers. Speaker Scheer.

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SCHEER: Thank you, Mr. President. Colleagues, when I went to the Chair to relieve the Lieutenant Governor, I did so for a short period of time. I don't look at how much time is left in relationship to a bill before it would have to have a cloture vote or being limited to three hours the first time. I simply look at how many people are wishing to speak. When I looked-- when Senator Matt Hansen made the motion to call the question, I looked directly at the queue. There were 14 members waiting to speak on this item. To me, that says that discussion has not ended. There is still a matter of full and fair debate. I would remind some of you that as we discussed the rules earlier this year, there was a big hesitancy that three hours was not enough that we had to have six continuous hours of debate. And now here we are, some of those same people that were being critical of a three hour that had to have six hour trying to overrule the Chair's position that if there are 14 people still waiting to speak on an issue, that we're done with the discussion. You can't have it both ways. If we're going to have full and fair debate, let's have full and fair debate. I'm sorry if in this case we will have gone past the threshold if indeed we were trying to get a vote on this. I don't determine how many people are in the queue. You folks determine that. But I also have to be cognizant of how many people are wishing to speak. There were 14. I would only ask you to think about that in future times perspective. What is full and fair debate? It's not full and fair debate when whoever's bill it is determines quickly, I want to take a bill-- I want to take a vote now, regardless of how many people are wishing to speak. That's really what this amounts to. It's pretty dangerous position to put the rest of this body in to and it's a terrible precedent to set for the rest of this biennium. I would ask you and urge you to vote red on this. And yes, indeed, we have now passed 11:23, which was the three-hour threshold. I didn't make that determination of not allowing the call of the question. My ruling was based on the people waiting to speak, not how close we may or may not have been to a three-hour threshold. That's not my job. My job is to determine to make sure that everybody gets a fair opportunity to speak as many times as they wish, up and to that limit. Not determining if one person got to speak once, it's however many times they wish to speak. And I believe I heard that earlier this year as we discussed the rules. So be careful how you vote, because you are going to put our system in jeopardy. Again, I would urge you to vote red on this. Thank you, Mr. President.

FOLEY: Thank you, Mr. Speaker. (Visitors introduced.) Senator Moser.

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MOSER: Thank you, Mr. President. I've gotten up to speak because if depending how these motions go, I may not get a chance to speak on this bill. And I've listened, I've kind of held back so I could try to see what everybody's opinions were. And I believe that all people should be respected on the basis of their religion, on the basis of their gender, they should all be free to think and to live within the laws however they want. My district is split on this issue, but it's primarily against creating a new class of people to claim discrimination. They believe that forcing employers to make decisions based on gender ID is wrong. And I agree. Employers should have the right to form their own employee policies within the laws as they are. They can make their own discrimination policies, they're free to do that however they want. I heard somebody say that we need to be united on this issue. I don't think this issue is uniting us at all. I think it's dividing us. It's taking Americans and calling them something else other than what they are and that's Americans and saying that they should be treated specially. So that's not uniting us. That's what's wrong with this country. We're Democrats. We're Republicans. We are heterosexual. We're homosexual. Whatever. Quit calling all these people names and just live together in peace. Do the right thing and not necessarily create laws to confuse things. I support the Chair on this. I don't think we should overrule him. I was listening to the debate because I wanted to learn more about it. I didn't like the comments from some of my colleagues that this debate is going to have lasting effects in our Legislature. I think we need to get over those hurt feelings. You can't expect everybody to think the way you do. That's just not how it is. There are legitimate philosophical differences between us in this body. We need to be able to speak to those differences and debate those issues and move on from that and not have lingering hurt feelings over it. Get over it. Life is short. Our time in this Legislature is short. We don't have time for those distractions. Our country has taken a turn for the left in the last eight to ten years and some people aren't comfortable with that. And this bill would force some of us to take that left turn along with some of those who have. And so again, I support the Chair. I don't support the motion to overrule the Chair, and I'm against [LB]627. Thank you.

FOLEY: Thank you, Senator Moser. Senator Matt Hansen, you're recognized to close on your motion to overrule the Chair.

M. HANSEN: Thank you, Mr. President; and good morning, colleagues. Colleagues, I want to refocus. I appreciate both Senator Hilgers and Speaker Scheer talking about my motion to

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overrule the Chair. I was a little disappointed that some of the debate on my motion was more the underlying bill, because as was noted, we're kind of past that. I want to call and make it very clear that I did not make this motion to overrule the Chair lightly. I don't have a final count, but I think in my four-plus years serving this Legislature, this might be the fourth motion to overrule the Chair, period. And certainly the first one that I can remember making myself. The reason I brought it is-- is-- and I-- is we're getting into this discussion on what is full and fair debate? And if we do not sustain my motion to overrule the Chair, we will allow-- we will have a double standard where three hours is wasting time and it needs to come off the agenda, but three hours is also not enough time for full and fair debate for a vote on a single motion. Now, in many other instances in which we need to invoke the closure motion, if you watch Senator Chambers or others who have done it over the years, there will be a series of motions or bills or-- sorry, or amendments in order to keep the underlying question from ever being debated because the principle is you can call to question on the underlying motion. And that is a principle. That is a majority vote and that is with a higher standard of getting the five hands, the five seconds. So we're at this with LB326 where I think it's contradictory to do it the way we're doing it where we can debate for close to three hours on a single motion and there is not full and fair debate. However, we also have the policy of saying three hours is too much of our time on the floor to debate a single bill before it has to come off and prove a higher vote standard. So we're at the crux of these two principles coming together. By all means, let's use this as an opportunity to kind of decide which way as a body we want to go. Moving to overrule the Chair is not something I've done lightly. It's not something-- there is other times I've disagreed with Chair's ruling and I've not made this motion. And I would certainly not make this motion seem like it was a simple motion. But working with the supporters of this bill, working with Senator Pansing Brooks, working with other co-sponsors of this bill, we want a vote up or down. And that was something we were trying to do with my attempt to call the question. And the Speaker, as the presiding officer, overruled the opportunity to even put that to a vote. And that is itself a dangerous precedent to set. I would submit that if we're not going to argue full and fair debate is the three hours on a single question, we're going to have to have a conversation on that. But if it's not full and fair debate, why is it leaving our agenda and why are we no longer being able to debate it? So colleagues, this is an opportunity for you to put your mark on whether or not you think anti-discrimination laws for LGBT folks in our communities, in our state, is even worthy of discussion in the Legislature, is even worthy of a vote. All other precedents aside, if you think

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that is something we deserve our constituents the right to have a vote to decide whether or not some of our constituents are discriminated against, you will support my motion to overrule the Chair and it will allow us to call the question. That's all we're trying to do is then to call the question. Let Senator Pansing Brooks close on her bill and take an up or down vote on the bill. I would ask the body to think about this and support my motion to overrule the Chair because in three hours of debate on a single motion should be enough to allow us at a minimum as a body--

FOLEY: One minute.

M. HANSEN: --to decide if it's full and fair debate. With that, Mr. President, I would ask for a call of the house.

FOLEY: Thank you, Senator Hansen. There has been a request to place the house under call. The question is shall the house go under call? Those in favor vote aye; those opposed vote nay. Record please.

CLERK: 25 ayes, 5 nays to place the house under call.

FOLEY: The house is under call. All unexcused senators please return to the floor. The house is under call. Please check in. All senators, the house is under call. Senator Ben Hansen, will you check in. Senator Groene and Senator Vargas, please return to the floor and check in. Senator Hansen, we're lacking Senator Vargas, we can wait if you care to wait or we can proceed, your choice. We will wait. Thank you, Senator Vargas-- excuse me, Senator Hansen. Senator Vargas, please return to the floor. Senator Hunt, we're under call. Senator Matt Hansen has authorized us to proceed. Members, pursuant to Rule 1, Section 12, this motion to overrule the Chair will require a majority of those present and voting. We have 44 members present; 23 votes are needed for a successful motion. The question for the body is whether or not to overrule the Chair. Those in favor vote aye; those opposed vote nay. A roll call vote has been requested. Mr. Clerk.

CLERK: [Roll call vote taken.] 16 ayes, 26 nays, Mr. President, to overrule the Chair.

FOLEY: The motion is not successful. I raise the call. Items for the record, Mr. Clerk.

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CLERK: I do, Mr. President, thank you. Enrollment and Review reports LB25, [LB]25A, [LB]119, [LB]159, [LB]203, [LB]235, [LB]333, [LB]380, [LB]469 and [LB]624 as correctly engrossed. I have an amendment to be printed by Senator Brewer to LB373. I also have a series of committee reports: the Government Committee reporting [LB]101, [LB]246,[LB]280, [LB]342, [LB]385 to General File; and [LB]608 and [LB]618 to General File with amendments. Mr. President, name add: Senator Walz to [LB]15; Slama, [LB]205; Groene,[LB]209; Cavanaugh, [LB]217.

Mr. President, Senator Friesen would move to adjourn the body until Wednesday morning, March 6, at 9:00 a.m.

FOLEY: The question for the body is whether or not to adjourn. Those in favor say aye. Those opposed say nay. We are adjourned.