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Judiciary Committee
March 14, 2013

[LB380 LB385 LB485 LB498 LR42]

The Committee on Judiciary met at 1:30 p.m. on Thursday, March 14, 2013, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB385, LB498, LB380, LB485, and LR42. Senators present: Brad Ashford, Chairperson; Steve Lathrop, Vice Chairperson; Ernie Chambers; Mark Christensen; Colby Coash; Al Davis; Amanda McGill; and Les Seiler. Senators absent: None.

SENATOR ASHFORD: We do have an overflow room. And which room is it? Okay, so out the door and down the hall a bit, Room 1023, if you wish to sit down. Let me...my name is Brad Ashford. I'm Chair of the Judiciary Committee. And let me tell you how we're going to conduct these hearings today. We have three bills which deal, generally, with the same subject matter: LB485, LB385, and LB380. And we're starting...beginning with Senator Conrad, we are going to introduce all three bills at the same time and then we're going to allocate an hour and a half to either side of any of the three bills. So what we would ask is once the three senators introduce their bills, then those who are in favor of either LB485...well, any of the three, LB485, LB385, or LB380, we'd ask them to come up and testify and designate which bills they are for. And then we'll go to the opponents, and the opponents will have an hour and a half to talk about their opposition to any of the three bills. They can talk about their opposition to two of them, one of them, or all three. But the testimony will be limited to the three minutes that we normally set aside for testifiers. Those who have not been here before, we have a light system on the desk, and the yellow light will indicate when we'd ask you to please sum up your thoughts and comments. If you desire to submit your opposition or support for either of...any of the three bills, you can do so in writing, as well, and we do have sheets on the table by the pillar. And before you come up and testify, we'd ask you to fill out one of the sheets as well. I did have...on Mark Ashton...Mark, are you here? I had one individual who asked if he could speak at the beginning in opposition, I think, to the bills, I believe. Is that right, Mark? So when we get to the opposition, Mark will speak first, and then we'll go through whomever...the list of those who wish to talk about any of the three. My colleagues are...and many of you know them, but I will introduce them anyway. Senator Les Seiler is here from Hastings, Nebraska; Senator Colby Coash from Lincoln, Senator Steve Lathrop from Omaha, Senator Amanda McGill from Lincoln, Senator Ernie Chambers from Omaha, and here comes Senator Mark Christensen from Imperial, Nebraska. Stacey Conroy, to my right, is my legal counsel. And Oliver VanDervoort is the committee clerk who takes everything down. So when you come up, please spell your name for us and...so we can get it on the record, and then proceed with your testimony. It may not...it may be that Senator Nordquist will be a little few minutes late because he has another bill, so we will wait after Senator Conrad introduces her bill and Senator Howard introduces LB380, then we may have a few minutes waiting for Senator Nordquist, but that's how we will proceed. So let's go ahead with LB485. Senator Conrad. [LB380 LB385 LB485]

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SENATOR CONRAD: Good afternoon and a happy Thursday to the Judiciary Committee. Senator Ashford, members of the Judiciary Committee, my name is Danielle Conrad, that's D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d, and I represent, as you know, the "Fightin' 46th" Legislative District of north Lincoln in our Nebraska Unicameral Legislature. LB485 makes it an unlawful employment practice for most employers to discriminate against an individual on the basis of sexual orientation. This bill applies to employers having 15 or more employees, employers with state contracts, the state of Nebraska, governmental agencies, and political subdivisions. This bill provides for a limited religious exemption and an exemption for family and home employment contexts. I introduced LB485 because I believe no one should be fired for who they are and who they love. This is a matter of justice. This is a matter of fairness. And to quote Victor Hugo: Nothing is as powerful as an idea whose time has come. Friends, this is indeed an idea whose time has come. It is time for Nebraska to join the ranks of about half of our sister states and about 180 local governments who have adopted similar legislation and protections. In addition, since the last time we entertained this legislation there have been significant developments in this arena. Let's look to the repeal of the unfortunate "don't ask, don't tell" policy that negatively impacted brave men and women in our military. Look to the ever-growing number of states across this great nation that has established marriage equality provisions. And right here in Nebraska, we can look no further than our state's largest city, to Omaha, where this very concept of workplace protection has been adopted. LGBT Nebraskans work hard. They pay taxes, they walk the dog, they volunteer in our communities, they attend religious services just like other Nebraskans. As such, they deserve the same rights we all enjoy in the workplace. And let me be clear, this legislation is not about special rights for anyone, but rather it's about fairness and equality for everyone. The workplace should be governed by qualification, merit, and performance of duties, not arbitrary distinctions. Friends, this legislation is not a new concept when it comes to consideration by the Nebraska Legislature. As we know, Senator Chambers has a proud history of introducing and advancing legislation like this and has many times in the past, most recently in 2007. Indeed, I stand on the shoulders of our own legislative giant today and thank him not only for his courageous leadership on these critical civil rights issues over the years, but also for his cosponsorship of this legislation and his wise counsel as I have navigated through this process thus far. The legislation I introduced is modeled very closely on the 2007 version Senator Chambers introduced and was not meant to be exclusive in any manner, but rather to be a starting point for continued dialogue on these important topics. Since the introduction of LB485, I have heard from many groups and individuals who have provided constructive feedback and ideas about various terms, definitions, and applications in this legislation. I'm going to address just two points for your consideration today. The first is this: The facts are undeniable, transgender citizens face serious discrimination in the workplace and that should not be tolerated. However, there is an open legal question as to whether or not protection currently exists for these citizens on the basis of protections in law stated under gender. Regardless of that interesting legal question, the committee, for policy reasons and to ensure uniformity

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with the Omaha ordinance, should consider this potential inclusion for LB485. The second point relates to religious exemptions. Historically, similar versions of this legislation have contained either a broader religious exemption at introduction or through committee amendment. The Omaha ordinance contains an even broader religious exemption than has been previously entertained by this body for a variety of reasons. Philosophically, I believe that discrimination is wrong and should not be tolerated in any context. However, because I am pragmatic, I was prepared to offer a similar amendment to the committee today. However, in prior discussions with the Nebraska Catholic Conference, they have identified other reasons to oppose the legislation. So to be clear, I think that we have a few takeaways on that topic. The first is, I think it's important to note that the faith community does not speak with one voice on these topics; and, in fact, many faith traditions support this legislation. Second, to address the concerns raised by those in opposition, that on the basis of religious freedom for private business owners that really has no sound basis in law or policy, and quite simply, the reason is because a business cannot or does not have afforded to it the same rights that we as individual citizens do. This context is no different. In conclusion, I thank you for your consideration of this important legislation. I'm happy to answer any questions and I look forward to a provocative and productive debate this afternoon. [LB485]

SENATOR ASHFORD: Thank you very much, Senator. Do we have any questions? Yes, Senator Coash. [LB485]

SENATOR COASH: Thank you, Senator Ashford. Senator Conrad, I'm going to rely on your legal expertise. [LB485]

SENATOR CONRAD: That may be your first mistake. [LB485]

SENATOR COASH: Okay. Well, you are a lawyer and I'm not, but. [LB485]

SENATOR CONRAD: Yes. [LB485]

SENATOR COASH: We're adding a protected class which the Supreme Court has already defined what constitutes a protected class, right? There's criteria that the Supreme Court has said have to be in place if you're going to call a group of people protected for purposes under the law. Do you know how your bill comes up against those criteria that the Supreme Court set? [LB485]

SENATOR CONRAD: Senator Coash, and I'm sorry, I'm not trying to be dense here, but I think generally, from a legal framework, how it works is that it's the province of a legislative body or institution to define what a protected class may or may not be. I don't think that a court does so on its own initiative. I think in the decision about whether or not certain other laws may apply to certain groups in a discriminatory manner, you will

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see a legal framework that the court will enter into in regards to what the appropriate level of constitutional analysis is, how that might work out in any particular context when you look at other issues like gender, race, national origin, some things like that. [LB485]

SENATOR COASH: Right. So we can call it the legal framework... [LB485]

SENATOR CONRAD: Sure. [LB485]

SENATOR COASH: ...that the court gave us and...to. They said that when you're going to have a protected class, these are the three characteristics that this class has to exhibit in order to qualify under this, the court decision. [LB485]

SENATOR CONRAD: And the court decision you're reading from is? [LB485]

SENATOR COASH: The Civil Rights Act of 1964. [LB485]

SENATOR CONRAD: Okay, that's not a court decision. That would be legislation. [LB485]

SENATOR COASH: Legislation. You're right. [LB485]

SENATOR CONRAD: Okay. [LB485]

SENATOR COASH: I'll give that to you. But it said the characteristics of the class have to be unchangeable. They also have to demonstrate economic oppression and demonstrate political powerlessness. So I just was curious if you took those into consideration when you...or how you see those three characteristics of the Civil Rights Act match with what you're trying to do with your bill. [LB485]

SENATOR CONRAD: Sure. I think that overall the Civil Rights Act is incredibly important to the fabric of our civil rights law in this great state and across our great country. However, federal law is distinguishable from state law for a variety of reasons, not to go into a treatise on the importance of federalism, etcetera, but I think that those were considerations that Congress looked at when adopting that legislation. I think the legislation that I have before you has some similarities and many differences. When we talk about protected classes in Nebraska...for example, if you do an exhaustive study of our existing statutory framework you will find that other protected classes under Nebraska law, like gender, race, etcetera, are not defined, but rather are taken up with their usual and ordinary meaning. [LB485]

SENATOR COASH: Okay. Thank you, Senator Conrad. [LB485]

SENATOR CONRAD: Um-hum. [LB485]

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SENATOR ASHFORD: Thank you, Senator Conrad. [LB485]

SENATOR CHAMBERS: Just one... [LB485]

SENATOR ASHFORD: Oh, Senator Chambers. [LB485]

SENATOR CHAMBERS: Some people have mentioned that the class must have something about it which is unchangeable, but nobody has ever challenged the fact that the current nondiscrimination law includes marital status, which we understand is constantly changing. And even physical... [LB485]

SENATOR CONRAD: For some folks more than others. Yes. [LB485]

SENATOR CHAMBERS: Right, and in more ways than one. [LB485]

SENATOR CONRAD: (Laugh) That's right. [LB485]

SENATOR CHAMBERS: Physical or mental disability are both capable of being altered, so I don't think that's even anything that needs to be considered. And the Code of Judicial Conduct specifies sexual orientation which cannot be a basis for a judge to show bias or discrimination; so does the Code of Professional Responsibility that governs lawyers, it has the same protection. And these are within the Supreme Court rules of Nebraska. So nobody could argue and be taken seriously that the Legislature cannot do what is being undertaken now. [LB485]

SENATOR CONRAD: Absolutely. [LB485]

SENATOR CHAMBERS: I just thought I'd put that into the record. [LB485]

SENATOR CONRAD: Yes. Thank you, Senator Chambers. I appreciate that, and that was a more specific answer to what I alluded to in my response. I think that Senator Coash is right to look to other civil rights statutes for guidance, but I do not believe that they would be controlling in any regard on the discussion before us today. [LB485]

SENATOR ASHFORD: Yes, Senator Christensen. [LB485]

SENATOR CHRISTENSEN: Thank you, Chairman. Thank you, Senator. So since you haven't defined the sexuality part of it, so you're saying they could be bisexual, polygamy, could be all these categories? [LB485]

SENATOR CONRAD: The term is sexual orientation and that would be taken with its common and traditional meaning. [LB485]

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SENATOR CHRISTENSEN: So it could include all of them. [LB485]

SENATOR CONRAD: I don't believe so, no. [LB485]

SENATOR CHRISTENSEN: Okay. Thank you. [LB485]

SENATOR CONRAD: I think it would be taken to mean sexual orientation, and I think that it would not be considered within its normal and traditional meaning to include some of the terms that you utilized. [LB485]

SENATOR CHRISTENSEN: But being bisexual would be... [LB485]

SENATOR CONRAD: Bisexual, yes. Polygamist, no. [LB485]

SENATOR CHRISTENSEN: Okay. Thank you. [LB485]

SENATOR CONRAD: That's not an orientation. [LB485]

SENATOR ASHFORD: Thank you, Senator Conrad. [LB485]

SENATOR CONRAD: Thank you. [LB485]

SENATOR ASHFORD: Let's... [LB485]

SENATOR LATHROP: Thanks, Danielle. [LB485]

SENATOR CONRAD: Thank you. [LB485]

SENATOR ASHFORD ...go on to Senator Nordquist, LB385. [LB485 LB385]

SENATOR NORDQUIST: (Exhibits 1-4) Thank you, Mr. Chairman, members of the Judiciary Committee. For the record, my name is Jeremy Nordquist and I represent District 7 in downtown and south Omaha. I'm here today to introduce LB385, the intent of which is to ensure that the maximum availability of suitable placements for children who have been removed from their homes due to child abuse or neglect. I've introduced LB385 because all Nebraska children deserve to be part of a loving home. By not allowing qualified parents to serve as foster placements, we are hurting children in our state, allowing them to languish in government care and depriving them of the loving, nurturing homes they so desperately need. Foster care should be based on whether the parents can provide the love, safety, security, and stability that all children deserve. This bill will protect the best interests of children by allowing greater opportunity for kids to find loving, stable, forever families. LB385 prohibits discrimination by the Department of

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Health and Human Services based on race, color, religion, sex, sexual orientation, gender identity, disability, marital status, or national origin when determining the suitability of out-of-home placement for a juvenile or when issuing a foster care license. There is currently a 1995 memo in place that governs the DHHS policy that says since the issue of sexual orientation in foster care is not addressed in statute or regulation, children will not be placed in homes of persons who identify themselves as homosexuals or where unmarried or unrelated adults reside together. And I believe I've distributed a copy...or my staff has distributed a copy of that to the committee. This bill is to provide clarity in statute that it will no longer be the policy of the state to discriminate based on sexual orientation or marital status. I'd like to make an important distinction that is reflected in the language of this bill. There's a difference between determining the suitability of a placement and the considerations that are utilized to determine whether or not to place a specific child in a specific home. This bill clarifies that an actual child-specific decision about placement shall remain...shall be based upon the health, safety, and well-being of the child, taking into consideration the requirements of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008, the federal Multiethnic Placement Act of 1994, and the Nebraska Indian Child Welfare Act. Essentially this bill requires that the department cannot discriminate based on these factors listed in the bill as to whether or not a family can be a potential foster home, but they can make actual placement decisions based upon what placement is best ultimately for the needs of a specific child. For example, DHHS may not initially rule out a family who wants to provide a loving home to a foster child simply because the prospective foster parent has a disability. However, when it comes to the actual placement decision, the language in the bill still allows the department to make a decision based upon the health, safety, and well-being of the child. So if the potential foster parent is physically disabled in some way that would make it difficult, if not impossible, to protect the health of an active infant, for example, then that placement would not be the best choice for such child. Foster care by loving families is without a doubt a better choice for our vulnerable children than institutional care, group homes, or other forms of congregate care. All appropriate potential placements that can protect the health and safety of our state's vulnerable children should be welcomed and affirmed by our state Department of Health and Human Services. As of January 6, there were over 3,900 children in out-of-home care. According to the Foster Care Review Office, 50 percent of out-of-home care on June 30, 2012, had been in four or more placements over their lifetime. Over half of our kids have been in four or more placements. The Foster Care Review Office lists reasons for this, including there might not be an appropriate placement available, foster parents have been overcrowded, and sometimes the mixture of the children is not appropriate. By passing this bill, we are ensuring that we have the maximum number of placements available for our vulnerable children and we are not discriminating based on issues that have no impact on protecting the children. Some may oppose this bill because I've included a prohibition against the discrimination of LGBT individuals and unmarried families who want to serve as foster parents. I've included with my testimony today a document that shows the

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positions of a variety of experts in the field of child welfare and child well-being, including the Child Welfare League of America, the American Academy of Pediatrics, the American Psychological Institute, the American Academy of Child and Adolescent Psychiatry. I also submitted letters of support from two national organizations: the North American Council on Adoptable Children, and from the Evan B. Donaldson Adoption Institute. It is the overwhelming conclusion of mainstream child health and welfare organizations and associations that diverse and nontraditional families can be at least as successful...be...successfully parent children in youth foster care and adoption. Virtually all valid research on parenting by gays and lesbians report the same outcomes, that gay and lesbian parents are as capable and qualified as straight parents, and their children are as healthy and well-adjusted as those raised by straight parents. We know what makes a good parent. They're loving, they provide a loving and stable home for their kids, they make lunches, change diapers, read bedtime stories, participate in car pool, put Band-aids on "owies," help with homework. Good parenting skills are not reserved for those who are straight, those who are without disabilities, those who are of a specific race, religion, or gender. Good parenting is good parenting. This bill allows DHHS to do its job to make sure that we have the maximum number of foster parents available, and I ask for your support in ensuring that goal. Thank you. [LB385]

SENATOR ASHFORD: Thank you, Jeremy. Any questions of Senator Nordquist? Seeing none, thank you. [LB385]

SENATOR NORDQUIST: Thank you. [LB385]

SENATOR ASHFORD: Sara. Sara, you have LB380, correct? [LB380]

SENATOR HOWARD: (Exhibits 5-8) Yes. Good afternoon, Senator Ashford, members of the committee. For the record, I am Senator Sara Howard, H-o-w-a-r-d, and I represent District 9. Today I bring you LB380, a bill to allow two unmarried persons to adopt a child jointly, a concept commonly referred to as coparent or second-parent adoption. When I ran for office, I went door to door meeting voters, as I'm sure every person on this committee did. I had never heard of second-parent adoption until I was canvassing a neighborhood. And I asked the same question at every door, which was, is there anything you're worried about that I should be worried about? And a young family with two adorable children told me that they wished Nebraska would allow second-parent adoption. For an adoption to be valid under Nebraska's adoption statutes, the record must show the following four factors: (1) the existence of an adult person or persons entitled to adopt; (2) the existence of a child eligible for adoption; (3) compliance with statutory procedures providing for adoption; and (4), evidence that the proposed adoption is in the child's best interests. There are two cases regarding second-parent adoption in Nebraska and they were both decided in 2002. The first, In re Luke questioned the ability of a Nebraska woman to adopt her partner's 3-year-old baby boy. In In re Luke, the court interpreted Nebraska's adoption laws to prohibit adoption of

a child by a person who is not married to the biological parent unless the biological parent had terminated their parental rights or relinquished them. That same year the Nebraska Supreme Court heard Russell v. Bridgens, a case to decide whether Nebraska would recognize a Pennsylvania second-parent adoption for the purposes of settling a custody dispute. The Nebraska Supreme Court, in a seemingly opposite decision to In re Luke, upheld the enforcement of the Pennsylvania second-parent adoption. The lawyers in the room will be quick to point out that these cases are distinguishable because one is an interpretation of Nebraska's adoption statute and the other is a decision regarding jurisdiction and full faith and credit. But in my mind what really distinguishes these two cases is that in the first the state of Nebraska denied Luke his mother while the unnamed child in the second was allowed to keep his or hers simply because the child was born unadopted elsewhere. LB380 seeks to remedy this discrepancy. In dissent in In re Luke, Justice Gerrard accused the court of spending so much time on statutory construction that the parent-child relationship was relegated to the shadows. Because this Legislature has failed to recognize the diversity of the modern family in the 11 years since In re Luke, the shadows are where these families and these children remain. For children, lack of legal recognition of their families has tangible implications. They cannot be assured financial benefits from their second parent, including health insurance, veterans benefits, disability benefits, Social Security survivors benefits, life insurance benefits, workers' compensation benefits, survivors awards, and wrongful death cases, inheritance with or without a will, or inheritance from relatives of their parent. And as the recipient of Social Security survivors benefits, after my own dad died, I know that that can make a really big difference for families. For parents, this lack of recognition leaves them without the tools essential to ensuring the well-being of their child. They cannot make medical decisions or consent to treatment. They cannot make educational decisions. They have no right to represent the child's interests in a legal action. They cannot take family medical leave if their child becomes sick. And worst of all, they have no guarantee of custody should the biological or primary adoptive parent pass away. Perhaps more important than the tangible benefits to both the child and the parent is the critical psychological and developmental role that the parent plays in the child's life. Children of unmarried parents love and rely on their parents regardless of the biological or legal status of the relationship. In child and family law, the best interests of the child trump all other concerns. In fact, in the 18 states that have made allowances for unmarried second parents to adopt, the majority have done so through a court decision for that very reason. The courts rendering these decisions consistently find that legal recognition of the parent-child relationship is not only in the child's best interest but essential to healthy development. Or in the words of the Indiana Court of Appeals, allowing a second parent to share legal responsibility for the financial, spiritual, educational, and emotional well-being of the child in a stable, supportive, and nurturing environment can only be in the best interests of the child. As a member of the Health and Human Services Committee, and the daughter of a social worker, I would be remiss if I did not mention the critical role this bill could play in fixing our broken foster care system. Much of the discussion in Health and Human Services centers around the

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need for safe, stable, loving families for our state wards. The inability of unmarried but otherwise qualified individuals to adopt means that children are allowed to languish in the system for years, bouncing from home to home, denied the love and stability that all people crave and all children deserve. During the process of introducing LB380, I have been overwhelmed by the citizen feedback on the bill, especially the personal stories from across the state. A petition in support of the bill has garnered over a thousand signatures, not just from Lincoln and Omaha, but from citizens in Imperial, Halsey, Hastings, Cairo, Kenesaw, and many more communities; citizens like the man from Norfolk who has been in a relationship for 12 years, but cannot adopt his girlfriend's children; or the grandmother in Blair who worries for her granddaughter because her second mother has no legal rights despite their marriage in Iowa. These are folks who recognize that all children deserve loving, stable families, and that no family should be treated as second-class citizens. LB380 ensures that our law recognizes the diversity of the modern family. It fixes an adoption law oversight that was problematic in 2002, but is inexcusable in 2013. We have waited for too long to lift these Nebraska families out of the shadows. The only way to do so is the advancement of LB380. I have a letter that I'm handing out on behalf of a parent that I feel represents the thoughts of all those parents in this situation who either couldn't be here today or were afraid to speak up for this bill. Before I close, I would like to share a quote from that letter with you: "We're just parents trying to take care of our children. Our children are just kids needing a legal connection to their parents. Let us do right by our children. The confusion with schools, insurance companies, medical providers, and the risk of a parental bond being challenged in the middle of an emergency, that can all be remedied by providing for second-parent adoptions in Nebraska. A government that stands as an obstacle to individuals meeting their parental obligations is a distorted government. This defies common sense and hurts Nebraska children." I've also passed out three letters from family law attorneys who could not be here today because of court obligations. I want to thank you for your consideration of LB380 and I will try to answer any questions you may have. [LB380]

SENATOR ASHFORD: Yes, Senator Coash and then Senator Christensen. [LB380]

SENATOR COASH: Thank you, Senator Ashford. Senator Howard, I want to ask you about one of the problems you're trying to address with LB380, and that is if you have a person who's adopted...a single person, because we only allow...because we do allow under current law a single person can adopt...one individual under the current law, a single person, can adopt a child, right? [LB380]

SENATOR HOWARD: Right. [LB380]

SENATOR COASH: And one of the problems you illustrated in your opening was that what happens if that single...if the parent dies, right? [LB380]

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SENATOR HOWARD: Um-hum. [LB380]

SENATOR COASH: If...adoption is the same as legal guardianship, right? I mean...or...what I'm asking you is, in other words,... [LB380]

SENATOR HOWARD: Adoption is different than legal guardianship. [LB380]

SENATOR COASH: Okay. Is adoption under our current law...is adoption the same as if that person had the kid themselves? [LB380]

SENATOR HOWARD: Yes. [LB380]

SENATOR COASH: Okay. So in the eyes of the law, the adopted child just might as well have been given birth by one of the...the parent. [LB380]

SENATOR HOWARD: Yes. [LB380]

SENATOR COASH: If something happens to that parent, are they allowed to say what happens to that child if they die, like through a will? [LB380]

SENATOR HOWARD: Sure. That's a good question actually. So what we found is that in...as I mentioned, in child and family law, the best interests of the child trumps all other considerations. And so the concern is that, yes, you could say in a will, as my mom did because she was a single parent, who she wanted to take care of her children after she potentially passed away. But in juvenile court they would also look at the considerations of maybe a blood relative as well; and so it wouldn't be guaranteed that those children would go to the partners, because in juvenile court there's the potential that an aunt or a grandparent could step in and say, well, I can provide a more stable and loving home, and make the argument and win that type of custody dispute. [LB380]

SENATOR COASH: So under current law, the court can do something different than the wishes of the adoptive parent? [LB380]

SENATOR HOWARD: Yes. [LB380]

SENATOR COASH: Okay. [LB380]

SENATOR SEILER: For cause. [LB380]

SENATOR HOWARD: For cause. [LB380]

SENATOR COASH: For cause. Okay. That helps me understand this a little bit better. And I don't mean to be phony when I ask this question, but under LB380 and the

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already...and I was trying to jot down notes. You listed a bunch of already established adoption criteria and guidelines. [LB380]

SENATOR HOWARD: Right. So we have the four adoption criteria. And then what In re Luke really pointed out was that, if you have a bio parent, and a second person would like to adopt that child, In re Luke decided that Nebraska statute requires the bio parent to relinquish or terminate their rights in order for the second parent to be able to adopt; because until that point in time, because we don't allow two unmarried adults to adopt, that child is not eligible for adoption, unless the parents were married. [LB380]

SENATOR COASH: Okay. So take those four...you said there's four criteria already established, which I'd like to take a look at those again. But take those four already established criteria, you add on LB380, could you and I adopt a baby? We're not married. And I don't mean that to be funny. I'm trying to figure out how this law will play out. [LB380]

SENATOR HOWARD: No, no. That is a really good question. So the third one is compliance with statutory procedures providing for adoption. So they have to live in the home for six months, they need a home visit, background checks. So presumably we would have to be living together in order to show that we would be able to provide a stable and loving home. [LB380]

SENATOR COASH: Okay. The reason I asked that is because we've just kind of struck a bunch of things and said just two adults. And so I wanted to see how that played with... [LB380]

SENATOR HOWARD: Yeah. I think on the ground you would see two adults living in the same home because they...you have to have a home visit, you have to have background checks, and you have to have parenting...most adoption agencies are requiring parenting classes as well, which is just...I think it's a great addition. And so the home visit would prove that you had a stable and loving home. [LB380]

SENATOR COASH: Okay. Because Senator Chambers has been teaching us in this committee that you have to look at what could happen under the law, and I... [LB380]

SENATOR HOWARD: Absolutely. [LB380]

SENATOR COASH: And that's a fair question to ask, and I'm trying to figure out if two unmarried...I'm not married to Senator Christensen either. Could we adopt a kid, you know? [LB380]

SENATOR HOWARD: Right. But I believe... [LB380]

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SENATOR COASH: And I know that's not your intent, Senator Howard, but... [LB380]

SENATOR HOWARD: No, absolutely. And I believe, respectfully, that you two would have to live together in order to show that you would have a stable and loving home for that child. [LB380]

SENATOR COASH: Okay. All right. Thank you, Senator Howard. [LB380]

SENATOR ASHFORD: Do you have any follow-up to that, Senator Christensen?
(Laughter) [LB380]

SENATOR CHRISTENSEN: Not sure I'm going there. Thank you, Chairman. Thank you, Senator. I just wanted to make sure I understood something you said right. One of the purposes of this is to allow people living together to meet the financial, emotional, and stable home for the child. [LB380]

SENATOR HOWARD: Um-hum. [LB380]

SENATOR CHRISTENSEN: And I guess if a mother has a child and is living with her boyfriend, she can still do...he can still do that, right? He can still contribute to the financial, emotional, and stability. So we're really not gaining anything there other than allowing the adoption part. [LB380]

SENATOR HOWARD: Well, in a sense you would gain it because, take the man in Norfolk who had been living with his girlfriend...who has been living with his girlfriend for 12 years, right? At this point in time if something happened to her, her parents could assert rights even though he's been raising those kids for 12 years. And he has no guarantee that he would be able to continue parenting them. [LB380]

SENATOR CHRISTENSEN: Unless, I believe, if there was a will and there was a probable cause not to, it would pass on that way. [LB380]

SENATOR HOWARD: Well, the court would assess the best interests of the child. And if the court decided that, say, the potential hypothetical grandparents were more in line with the best interests of the child, they could place the children in custody with the grandparents as opposed to the boyfriend. [LB380]

SENATOR CHRISTENSEN: But I thought Senator Seiler here said, with probable cause or something... [LB380]

SENATOR SEILER: Well, it's under the Uniform Probate Code. [LB380]

SENATOR HOWARD: Well, best interests in child and family law doesn't rely on

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probable cause the way you would in, say, a criminal proceeding. It's...the juvenile court really tries to look at the holistic needs of the child. And so you don't necessarily need probable cause in that sense, but they would say who can provide a more stable and loving home at this point in time, what is in the best interests of the child. So that really does trump all other considerations. [LB380]

SENATOR CHRISTENSEN: Thank you. [LB380]

SENATOR ASHFORD: Senator Seiler. [LB380]

SENATOR SEILER: I'd like to clarify that. There's a Uniform Probate Code says that if you designate in your will who's going to have custody of the child, the presumption is that person will have it and it has to be overcome by evidence sufficient to overcome the presumption under the law. [LB380]

SENATOR HOWARD: Thank you for that feedback. [LB380]

SENATOR ASHFORD: Thank you, Senator Howard. [LB380]

SENATOR HOWARD: Thank you. [LB380]

SENATOR ASHFORD: Let's go to the proponents now. We will go until 3:40. I think that's...or until...or earlier if...so if it runs that way. [LB380]

AMY MILLER: (Exhibits 9-11) Good afternoon, Senators. My name is Amy Miller. It's A-m-y M-i-l-l-e-r. I'm legal director for ACLU Nebraska and we did intend to testify in support of all three bills so you're getting a large stack of paper from me. Given the time limitations, I am going to focus my comments today on LB380 because this is an issue that went to the Nebraska Supreme Court in one of my cases. We represented the two women who had planned for the child together, had Luke living in their home; and the only question was, will Luke have the financial and legal protections of two parents or one? And with the legal test of best interests of the child, it's still astonishing to me that I lost the case because obviously it's always better to have two parents financially and legally responsible for a child. The court ruled that they were simply stuck due to the separation of powers, that they can only interpret what you write. And they said, because our state statutes are written with gender-specific language with the phrases husband and wife, that their hands were tied, and the court had to interpret the statutes to say no two unmarried people could adopt together. Yes, a single gay or lesbian person can adopt, a husband and wife, or a stepparent situation is fine, but a brother and sister cannot adopt, a same-sex couple cannot adopt, and two nuns could not adopt together. The Nebraska Supreme Court emphasized that in no way are same-sex couples or unmarried couples unfit parents; they simply were bound by the law as it was written, which means children like Luke--and there are estimated to be thousands of

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them in Nebraska according to the census--children like Luke have no protections unless you act. The statutes will have to be rewritten because our highest court has already said, as they currently stand, we cannot go any farther to protect children. Now we've already heard about some of the legal protections that we're talking about. A parent can always execute a power of attorney. You have to go to an attorney. You have to make sure you go to a notary. And powers of attorney that grant parent-like powers expire every six months; so in a same-sex relationship where both partners are currently still alive, the people can continue to return to an attorney and have some legal protections while the child is there, but they have to go back again and again to make sure that the power of attorney is renewed. It's after death that most of these rights become most problematic. A child who's not an adopted child could inherit under a will from his nonbiological parent but he'll inherit paying the 18 percent inheritance tax that our state laws impose rather than inheriting merely tax-free from an adoptive parent. All of the mainstream child authorities support second-parent adoption laws: the American Bar Association, the American Psychological Association, the Nebraska Psychological Association. We have as a last page of our testimony, the actual statutory cites to state and federal law so that you can see the list of the legal rights that only attach to a parent. You are only a parent if you biologically give birth to the child or if you are, in fact, someone who has been decreed an adoptive parent by a court of law. For these reasons we ask you to advance LB380. It is the only way that children like Luke will be protected. [LB380 LB385 LB485]

SENATOR ASHFORD: Thank you, Amy. Do we have any questions? Let's go to Senator McGill first and then Senator Davis. [LB380 LB385 LB485]

SENATOR MCGILL: Well, I know we took you by surprise by having to do all three at once. [LB380 LB385 LB485]

AMY MILLER: And may I say, I'm happy to answer questions on all three bills... [LB380 LB385 LB485]

SENATOR MCGILL: And that's where I'm going and to give you an opportunity to talk. [LB380 LB385 LB485]

AMY MILLER: Excellent. [LB380 LB385 LB485]

SENATOR MCGILL: And I like what you have here on the discriminative...workplace discrimination. And I hadn't thought of it this way, but you point out that every person has a sexual orientation. So theoretically, if a gay man owns a business he couldn't discriminate by only hiring other people who are gays or lesbians. [LB380 LB385 LB485]

AMY MILLER: Exactly. We all have a sexual orientation whether we are lesbian,

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bisexual, gay, or straight. So it is true that this bill would protect all Nebraskans from discrimination, which has nothing to do with your workplace performance. [LB380 LB385 LB485]

SENATOR MCGILL: Thank you. [LB380 LB385 LB485]

SENATOR ASHFORD: Senator Davis. [LB380 LB385 LB485]

SENATOR DAVIS: I don't want to muddy the water, Ms. Miller--and thank you for coming--but we have states in the country that recognize gay marriage and Nebraska does not. So supposing we have one of these adoptive situations where people came in from another state and the parent died, how would Nebraska's law be applied in that case? [LB380 LB385 LB485]

AMY MILLER: It appears because of the second case that Senator Howard mentioned, Russell v. Bridgens, that that couple coming from out of state would be protected, because we have to recognize certain rights and certain orders that come from other states. Now because we have a DOMA in place, a Defense of Marriage Act, the parent's relationship is not recognized, but an adoption decree doesn't go this way with the parents; it goes this way to the children. And so the Nebraska Supreme Court said, we will recognize adoption decrees legally entered from other states; which does put us in that very odd position that if the gay and lesbian couples or unmarried couples living in Nebraska, Nebraska natives, have less protection than people who have come to our state with a decree from another state. [LB380 LB385 LB485]

SENATOR DAVIS: And so in that situation has there ever been a case where a biological parent then tried to assume adoption? [LB380 LB385 LB485]

AMY MILLER: To assume adoption...tell me more what the scenario you're thinking of. [LB380 LB385 LB485]

SENATOR DAVIS: Okay, we've got a couple that comes in from somewhere else, a gay couple that's married in another state, not the biological parent. I mean, maybe the biological parent lives in the other state. So would that parent have the right, then, to try to nullify the adoption process? [LB380 LB385 LB485]

AMY MILLER: That is what happened in Russell v. Bridgens. [LB380 LB385 LB485]

SENATOR DAVIS: Okay. [LB380 LB385 LB485]

AMY MILLER: Interestingly, the two women had adopted a child together. He was a nonbiological child to both of them. He was in foster care; they adopted the child together in Pennsylvania. They moved to Nebraska and the relationship fell apart. The

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woman who had adopted first has the child and goes and says to the second mother who wants to now leave the state, we need to talk about child support, we need to talk about visitation for Christmas, all the normal things that happen when a relationship fails. And the second mom says, you know, the Nebraska Supreme Court just ruled in In re Luke that gay adoption isn't allowed, so I don't owe you a dime. Even though in Pennsylvania she had gone in front of judge and promised to be financially and legally responsible for that child, she wanted to walk away. The Nebraska Supreme Court said, not so fast. In a legal court where it was a valid adoption in Pennsylvania, we're going to still recognize that here; you are on the hook for that child's child support; and you have the benefits of being able to visit that child until he's 18. It's that sort of injustice that this remedies. It's not only for relationships that continue to move forward and a person dies, it's also a relationship where people plan for a child together and then one wants to walk away. It's not fair to the child and the law shouldn't tolerate that. [LB380 LB385 LB485]

SENATOR ASHFORD: Senator Seiler. [LB380 LB385 LB485]

SENATOR SEILER: I don't disagree with your argument except for the inheritance tax illustration. There's a Nebraska Supreme Court that says if you hold a child out as a child, even though it isn't your child, they collect the tax as a child under 77-2003. [LB380 LB385 LB485]

AMY MILLER: You know, the interesting thing is, I'm not sure how that applies in the same-sex context though, because clearly if I was here with a lesbian partner, there's no way if she carried the child that you could believe that I actually was a parent, whereas the male-female relationship... [LB380 LB385 LB485]

SENATOR SEILER: No. The court says you just have to act like one. [LB380 LB385 LB485]

AMY MILLER: Certainly in loco parentis rules, and that is slightly different, but Nebraska Supreme Court has recognized in loco parentis as a way to protect when a husband...excuse me, a man and a woman who are not married are together and then they divorce and--they divorce--they separate, and one of the parents is denying access, saying, well, we never were married so you don't get to see the kids; the Nebraska Supreme Court has been very clear that that is not acceptable and that someone who has been in that child's life. But all of the cases, at least in the in loco parentis situation, thus far have been in a male-female context. [LB380 LB385 LB485]

SENATOR SEILER: Take a look at the inheritance tax case. [LB380 LB385 LB485]

AMY MILLER: I'll look at that. I'll look at that. [LB380 LB385 LB485]

SENATOR SEILER: It's different, because the statute alludes to holding a child out, and

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they interpret that that is saying he collects as a child under the will and therefore he's taxed as a child, and all the evidence came in that he held himself out to be his child. [LB380 LB385 LB485]

AMY MILLER: I want to point out at this point, Senator Seiler, you've had two different probate expertise moments in this one hearing. I may have to come to you for my estate planning, if you're available. (Laughter) [LB380 LB385 LB485]

SENATOR SEILER: And I can sit here the rest of the time on Judiciary and never see a probate case. (Laugh) [LB380 LB385 LB485]

AMY MILLER: You could pick up some clients in the room though. [LB380 LB385 LB485]

SENATOR ASHFORD: Thank you, Amy. [LB380 LB385 LB485]

AMY MILLER: Thank you. [LB380 LB385 LB485]

SENATOR ASHFORD: You know, what we might do is once you've spoke, once you've had an opportunity to testify, it might be good to go to the overflow room so that people have a chance to sit down. Maybe. Let's try that. Go ahead. [LB380 LB385 LB485]

CARL ESKRIDGE: (Exhibit 12) Good afternoon, Senator Ashford and members of the Judiciary Committee. My name is Carl Eskridge, C-a-r-l, Eskridge, E-s-k-r-i-d-g-e. I'm here today as a member of the Lincoln City Council. I want to be clear, though, that I'm not speaking on behalf of the council. Also I need to remind you that I serve you as a deputy ombudsman and I'm taking vacation time this afternoon to be in this nice sunny, warm place. I'm testifying in favor of LB485 because I believe that the issue of providing protections against discrimination towards LGBT persons ideally should be a statewide policy. To illustrate this point, I've distributed a sheet that outlines the experience of Lincoln with its fairness ordinance. This ordinance prohibited discrimination in employment, housing, and public accommodations on the basis of sexual orientation and gender identity. After an emotional seven-hour hearing where approximately 90 persons testified, some of whom are here with you this afternoon, the council then approved the ordinance by a vote of 5-0. There were two members of our council who abstained that day indicating that the issue really should be one of state law. Opponents of the measure organized a petition drive, obtained a sufficient number of signatures to repeal the ordinance. Under city charter, the council then had to decide either to repeal the ordinance or to put the issue up to a vote of the people. Reluctantly, the council decided that it would be going forward as a vote, though the date of the vote has not yet been determined. So there are two reasons I believe LB485 has merit. First of all, discrimination against LGBT persons exists. We've heard of it, we've seen it. And unless a person happens to live in Omaha in this state, no one is protected against

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discrimination on the basis of sexual orientation or gender identity anywhere in the state of Nebraska. I think that's wrong. Providing protection...secondly, providing protection to LGBT persons is good for our state. By providing this protection, we're telling members of the LGBT community and others that our doors are open; that we're a state that accepts people, welcomes diversity; we encourage people to come to our schools and universities to teach or to study; progressive businesses will consider Nebraska to be the kind of place that would be consistent with their corporate culture and want to locate here; and lastly, employees can find opportunities and be assured that they will be measured by the quality of their work that they produce. I'd be happy to answer any questions. [LB380 LB385 LB485]

SENATOR ASHFORD: Seeing none, thank you. [LB380 LB385 LB485]

CARL ESKRIDGE: Thank you. [LB380 LB385 LB485]

SENATOR ASHFORD: We'll go...the next time we'll go this side, and... [LB380 LB385 LB485]

BARBARA ALBERS: Good afternoon. I'm Barbara Albers; that's B-a-r-b-a-r-a, Albers, A-l-b-e-r-s. So good afternoon, Senators. I'm the director of the state agency, the Equal Opportunity Commission. At our February commission meeting, our commissioners discussed LB485; and for the various reasons that you've already heard this afternoon, they have endorsed this legislation and wish for it to be passed. Currently, at the federal level, the EEOC does investigate discrimination against individuals due to their sexual orientation. They believe that this constitutes sex discrimination in violation of Title VII. And at the present time, our state Fair Employment Practice Act does not include sexual orientation as a protected basis. So in accordance with the work sharing agreement that we have with the EEOC, those cases are deferred to the federal agency. So with the passage of LB485, the EEOC would be able to conduct the initial investigation on those cases. We did submit a fiscal note. We believe that while it's hard to estimate the number of charges, we would be asking for an additional investigator position. [LB380 LB385 LB485]

SENATOR ASHFORD: Okay. Thank you. [LB380 LB385 LB485]

BARBARA ALBERS: Thank you. [LB380 LB385 LB485]

TAMI LEWIS-AHRENDT: (Exhibit 13) Chairman Ashford and members of the Judiciary Committee, I want to establish first that I'm here as a person. I am not representing any agency, only myself and my own interests. My name is Tami Lewis-Ahrendt, T-a-m-i L-e-w-i-s, hyphen, A-h-r-e-n-d-t. I'm 40 years old. I'm a human resource director at a nonprofit agency here in Lincoln, and I've worked in behavioral health for five years. I'm married with two kids. My wife and I are both educated professional women. We come

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from large families and we were married in 2003. In 2007, we decided we wanted to start a family. We began our journey by exploring the foster care system. We knew there to be a number of children looking for safe, secure, and loving surroundings, which we felt we could offer if even on a temporary basis. We looked into becoming foster parents, and learned quite quickly that despite the overwhelmingly needs for family in Lincoln, we couldn't be considered because we were both women who resided together. We were told by employees in the system, one an employee of the state and one of a private agency that provides foster care in the city, that we could not be considered as a couple nor could we be considered as individuals because we resided together as a couple. If we wanted to pursue foster care, we could not acknowledge that we were in any type of committed relationship. We were told to lie. We were given advice on how we could arrange our home to make it more appealing and less gay. We needed to make sure there would never be any indication, at least not anywhere visible, that we were a couple. We should definitely make it look like we had separate bedrooms. It was obvious that foster care would not be an option for the two of us, who are both committed to honesty in our lives, our work, and our families. It did not seem worth the effort nor did we have the desire to compromise our integrity in such a way. Fortunately, we found a friend who wanted to leave a legacy, and through the gift of insemination he helped us start a family. We now have two boys, a 3-year-old and a 1-year-old. They're absolutely adorable. I'll show you pictures if you want to see. They're happy, healthy, well-cared-for, and they're loved by everyone. Our whole family, parents together and our extended family, are part of our support network. As I mentioned before, I work in behavioral healthcare and I watched the child welfare system fall apart. I know there are kids waiting in shelters. I know that there is a need for families and resources in the city. We are willing to open our home and offer a safe and caring environment to a child or children in need. It breaks my heart to know that they're sitting there waiting without placement, without placement together with their siblings because there aren't enough families to provide those environments. It's more disappointing to know that the reason my home can't even be considered as an option is founded and based on someone's opinion expressed in a memo in the 1990s. It's a shame to be counted out as a viable possibility merely because one of us or perhaps both of us are the wrong gender. The only thing more despicable than the neglect of a child is the willful neglect of a child based on discrimination. I can only say...I cannot speak for all LGBT persons or parents. I can say that we're not the only couple willing to be part of the solution who are unable because of our sexual orientation. I believe that this discrimination is a disservice to our community, the system, and to the children who need us. Thank you for your time. [LB380 LB385 LB485]

SENATOR ASHFORD: Thank you, Tami. Yes, Senator Coash. [LB380 LB385 LB485]

SENATOR COASH: Thank you, Senator Ashford. Thank you, Tami, for testifying. So in your family situation, are you the legal guardian for the children or is your partner?
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TAMI LEWIS-AHRENDT: In our situation...and Senator Coash, I might mention that we were in the same birthing class at Bryan together. My partner and I were in the same class with you and your wife. (Laughter) [LB380 LB385 LB485]

SENATOR COASH: (Inaudible) (Laughter) [LB380 LB385 LB485]

TAMI LEWIS-AHRENDT: She was the one who was pregnant, not you. But I am the biological parent. I do have legal protections in place, as many as we can. We have a will. You know, we have the powers of attorney that need to be changed on a six-month basis. We've done as much as we can in the state of Nebraska to protect those rights. [LB380 LB385 LB485]

SENATOR COASH: So you're the legal guardian for the kids. [LB380 LB385 LB485]

TAMI LEWIS-AHRENDT: I am...the legal parent, yes. [LB380 LB385 LB485]

SENATOR COASH: Legal parent. So... [LB380 LB385 LB485]

TAMI LEWIS-AHRENDT: And their father is also their legal parent. [LB380 LB385 LB485]

SENATOR COASH: Okay. So if something happens to you, you've identified in your will that your partner becomes the legal guardian? [LB380 LB385 LB485]

TAMI LEWIS-AHRENDT: Yes, I have. And we've also established, because our families are supportive and our families are a network that support us in our family construct, that they all understand who has rights if something were to happen to me or to their dad. And their dad has assured that if something were to happen to me or him, that she would...that my wife would have legal rights to the children. As far as it can go. You know, there's always that fear. [LB380 LB385 LB485]

SENATOR COASH: Okay. Thanks. [LB380 LB385 LB485]

TAMI LEWIS-AHRENDT: Yes. [LB380 LB385 LB485]

SENATOR ASHFORD: Thanks, Tami. [LB380 LB385 LB485]

TAMI LEWIS-AHRENDT: Thank you. [LB380 LB385 LB485]

LAUREN PILNICK: Good afternoon to the Judiciary Committee. My name is Lauren Pilnick, L-a-u-r-e-n P-i-l-n-i-c-k. I'm here in support of LB380. I moved to Nebraska a year ago. And since moving here, I have worked in the child welfare system through an

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organization contracted by the state, and have been able to witness firsthand the quite desperate need for more foster parents and adoptive parents in the name of family permanency and for the benefit of children and youth. The solution should not be for those who cannot adopt here that we relocate to another state where a second parent can legally adopt. Instead I want to effect change and see that Nebraska joins the majority of states that do allow second-parent adoption. So I started an on-line petition. Today I delivered that petition and its 554 signatures to you. Because of that petition, as well as the tireless efforts of champions for this issue, Sara Howard, second-parent adoption bill, LB380 is also presented for you today. A subsequent petition supporting LB380 specifically was created, which I also present to you today, bearing 1,049 signatures of constituents who urge you to support this bill. Unfortunately, with second-parent adoption not currently a possibility in our state, children and families are the ones bearing the brunt. Children and families are being kept from valuable resources and being denied legal acknowledgement as a family as well as all the benefits associated with that recognition. The truth is, even though second-parent adoption isn't recognized here, that doesn't actually stop or prevent people from serving as dedicated, loving, and doting second parents. Instead, what it does do is keep vital resources from their children. As the law reads currently, this affects all nonmarried people who serve as parents to children in Nebraska. How many people can you think of, right now, that you know personally who were raised by people other than a mother and a father who are currently married to each other? Maybe this was even your experience growing up. In effect, this is depriving and disadvantaging anyone and everyone who falls within that nonmarried parent category, the mom and the grandma who coparent, the sisters, the nonmarried high school sweethearts. Today you have an opportunity, the opportunity to stand on the right side of history where equality and children's best interests are at stake. You have the opportunity to put children first. You have the opportunity to demonstrate that being a family doesn't require marriage. You have the opportunity to show legislators in Ohio and Wisconsin, the two other states that also do not permit second-parent adoption, that we...that Nebraskans are moving forward, that Nebraska and its representatives are progressing and making advancements in the name of children and families. I implore you to pass this bill. Beyond starting petitions, giving testimony, and electing you into office, we are otherwise powerless. We depend on you, our representatives, to enact laws that protect us and our children; laws that give us opportunity, laws that reflect our interests and our wishes, laws that move us forward. Please give all Nebraskan families the honor and the protection of being legally recognized as just that: Nebraskan families. Thank you for your attention. [LB380 LB385 LB485]

SENATOR ASHFORD: Thank you. I don't see any questions, so thank you for being here. [LB380 LB385 LB485]

KIM HAWEKOTTE: Good afternoon, Senator Ashford and members of the Judiciary Committee. I am Kim Hawekotte; it's K-i-m H-a-w-e-k-o-t-t-e. I am the executive director

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at the Foster Care Review Office, and we are testifying as a proponent of LB385. We felt it was important that some data is made available to this committee with regards to foster care placements. Our quarterly report will be publicly released tomorrow, on March 15; and there was some relevant data with regards to foster care placements that we feel directly relate to LB385. On December 31, 2012, the state of Nebraska had 3,962 youth in out-of-home care; 71 percent of these, or about 2,800 of these youth were in licensed or foster...or relative foster homes. Of those, 38 percent of these youth, it was their second or more time placed in out-of-home care. So more than a third of them were. Forty-six percent of these youth of the 3,962 youth had four or more lifetime placements during their time in out-of-home care; 45 percent of these youth, or close to 1,800 of these youth, are ages 13-18. Of these teenage youth, these 1,800, 54 percent had been in out-of-home care before. So as we're looking at this data, we feel it's very important that we talk about placement stability, placement disruptions. We know no one youth is the same. They each have their own needs. For youth placed out of home, we, the state as the parent, need to be a good parent. In making decisions about placing a child in a foster care setting, we should be guided by considerations as to what's in the best interests of the child, looking at the strengths and weaknesses of the prospective foster parents to be able to meet that child's needs, and not what's based upon race, religion, marital status, or sexual orientation. We need to ensure that we're meeting the needs of the kids by doing that good match, that the foster parents can meet the needs of those youth. When you make that good match, we would have less placement disruptions, more placement stability, and more permanency for these youth. So it's our belief that this bill, LB385, would impact placement stability for these youth that we have. And like I said, the numbers are not small. They are a large number. So we respectfully request that LB385 be advanced. Also just to make you aware, there is a bill, LB265, before the Health and Human Services Committee which does deal with bringing back child-specific placement, kinship placements, that this language of LB385 could easily be placed into two as a combination of the two. And I'm available for any questions. Or if not, read our report. [LB380 LB385 LB485]

SENATOR ASHFORD: Any questions of Kim? Okay, thanks, Kim. [LB380 LB385 LB485]

PAMELA ALLEN: (Exhibit 14) Good afternoon, Senators. Thank you for giving me the opportunity to talk to you today. My name is Pamela Allen, P-a-m-e-l-a A-l-l-e-n. I am the executive director of the Nebraska Foster and Adoptive Parent Association, the Region 7 board member for the National Foster Parent Association, and the NACAC representative for Nebraska, which is the North American Council on Adoptable Children. I'm here today to testify in favor in LB385. Far too many foster children in Nebraska linger in shelters and group homes for lack of licensed foster homes when there are same-sex couples, people with disabilities, as well as couples that are living together and not legally married that may be able to provide loving, stable homes. Children should not be denied a permanent family because of sexual orientation of

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potential parents. According to an article in the Winter 2006 Adoptalk, LGBT individuals are more likely than their heterosexual counterparts to foster and adopt children with special needs. Every leading child welfare organization in the United States, including the North American Council on Adoptable Children, the Child Welfare League of America, the American Academy of Pediatrics, and the National Foster Parent Association, opposes the blanket parenting restrictions based on sexual orientation. There is no study that has found any reason to question the quality of same-sex individuals' parenting or the well-being of their children. NFAPA believes that all individuals that want to foster should have to go through the same foster parent training, the background checks, everything to make sure that the children are safe. Bottom line is that children grow best in a family and not in a shelter or a group home. Same-sex couples can provide a family for a child, and studies show that children living with same-sex couples does not adversely affect them. Oftentimes, same-sex couples are more willing to take on children with special needs and older youth that are oftentimes labeled as hard to place. Can Nebraska really afford to turn our back on what would very possibly be a very valuable and untapped resource for our children? I have a story that was sent to me from a young man that moved to New York from Nebraska. He's from Gering. He moved there 22 years ago. He adopted children in New York...and I included that in there because I know it's going to turn red. But in the end he says, "When it comes down to it, gay and lesbian folk only want what everyone else can take for granted: the right to love and raise a family. And for what it is worth, my family looks remarkably similar to yours even though I had to run away to New York City to gain those rights. God bless you all." I'll answer any questions. [LB380 LB385 LB485]

SENATOR ASHFORD: I don't see any. Thank you very much. [LB380 LB385 LB485]

PAMELA ALLEN: Thank you. [LB380 LB385 LB485]

MICHAEL CICH-JONES: May my husband and I testify together? Michael Cich-Jones; the last name is C-i-c-h, hyphen Jones, J-o-n-e-s. [LB380 LB385 LB485]

SCOTT JONES: (Exhibit 17) And the Reverend Doctor Scott Jones, J-o-n-e-s, senior minister for Central Congregational Church, Omaha, Nebraska. In 1952, my grandparents, Christine and Herbert Jones, who had been unable to have children of their own, received a call from the state orphanage in Oklahoma that the 4-year-old boy was ready for them to pick up. Leonard Green, nicknamed Tubby, along with his sisters and brothers, had been taken from an abusive home. Fortunately, Leonard was young enough that he had not been the victim of the abuse that his elder siblings had received. The Joneses drove hours to meet him and immediately bonded, and they took him home, stopping in Tulsa to buy clothes and toys. The day my father became Randall Dewayne Jones transformed his own life and made mine possible. And it explains why I have always wanted to adopt. [LB380 LB385 LB485]

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MICHAEL CICH-JONES: In 2010, my husband and I moved to Omaha from Oklahoma City when he was called to become the senior minister of the First Central Congregational Church. One of the goals of our job search...of his job search, was to be in a stable financial position so that we can begin a family, and we were looking forward to doing that as we settled here. We had only been in Nebraska a few months when we attended a workshop for gay couples on family issues, including adoption. There we learned that Nebraska bars openly gay persons from adopting. Oklahoma, where we came from, is known nationally for its antigay policies, yet there we could have adopted, because those viewed as unmarried by the state can adopt regardless of their sexual orientation. As you can imagine, this was heartbreaking news for us. Even now, my husband is contemplating whether he will leave the church that God called him to; I will be leaving the job that I enjoy, the home we've remodeled, the friends we have made, and move to another state in order to pursue our desire to have a family. [LB380 LB385 LB485]

SCOTT JONES: Last Advent, my congregation's worship theme was "What's your wish?" And on the second Sunday of Advent we invited everyone to share their heart's desire as a sign of how God was working with them, drawing them to become their best selves. And I shared that my wish, my heart's desire, the thing that I have always most looked forward in life was to be a grandfather sitting at the Thanksgiving table enjoying the fellowship of my children and grandchildren. In Nebraska, what stands in our way is a law that serves no legitimate governmental interest, a law that makes an arbitrary and cruel distinction. And today we implore you to right this wrong. [LB380 LB385 LB485]

SENATOR ASHFORD: Thank you. I don't see any questions. Thanks for coming. Let's see, where were we? Over here. [LB380 LB385 LB485]

DAWN CRIPE: Hi. I'm Dawn Cripe, and before I start...C-r-i-p-e. And before I start, I want to say, Senator Chambers, it's a pleasure to meet you in person or see you in person. And I'm really, really nervous today not because I'm before you but because my partner who normally doesn't take care of Jack is home with him now, and I realize that my guardianship papers that I have with me have expired. I need to take care of that right away. This is for Jack. In keeping with Nebraska's state motto, "Equality Before the Law," it is with this hope for equality that I come before you today as a Nebraskan to express my support for LB380. Thank you to members of the Legislature, to Sara Howard and other sponsors of this bill, and to all the supporters among us today. Although my story is my family's story, it is not unique to me. There are many other Nebraska families like mine where a child has a second parent but without protection of the law to keep the child or children in a stable, safe, and familiar environment if something should happen to the legal parent. Today, in Georgia, my friend's cousin and his male partner are adopting a second baby, a child who is not their biological daughter; but the state of Georgia considers her...them, her legal parents. Today, in Nebraska, I come before you to ask for the same legal protection of a two-parent family

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for Nebraskan children and for my son Jack who is my partner's biological child. Let me introduce you to my family. This is my partner Dee of 13 years. She has suffered through it. And our son Jack. I'd like to say that Dee carried Jack for the first nine months and I've carried him ever since. Three years ago, together, we decided to have a baby. As a partner and second parent, I was there with Dee through the process of in vitro fertilization, a process that many families like mine face. Together we chose the donor, one that would have the chance of a child who would look most like us to make us a family, and together we chose Jack. Together we heard the news that we were pregnant, possibly with multiples, three or four or at least twins. I breathed in a paper bag but I stayed. Together we went through Dee's pregnancy, the crying spells, swollen ankles, weight gain, gastrointestinal problems, mood swings, and morning sickness--and that was just me. (Laughter) Together we chose his name: Jackson Dean Cripe, after her father, now deceased, and my last name, to make us a family. Together, as expectant parents, we listened to Jack's hiccups, felt his first kicks--that of a pro soccer player, I'm sure. We went to doctor appointments and ultrasounds of our son, heard his heartbeat for the first time, and got the devastating news that Jack may have a heart condition and that an ultrasound showed he had sandal-gap toes, a characteristic of Down syndrome. Once again, together as expectant parents, we faced the uncertainty of an amniocentesis. I was there to take Dr. Barsoom's phone call and heard him say, "Dawn, you were right; Jack just has toes made for the beach. You have a healthy baby boy." Delivery day came. Together we were in the labor room, counting, breathing, pushing, crying, waiting for Jack's birth. And together we were in awe as our son was born and we heard his first cry. I cut his umbilical cord--and baby made three. I watched as the nurses checked my son's vital signs. Something was wrong. He was in respiratory failure and at the same time Dee slipped in and out of consciousness. The next few hours became a life-and-death struggle for my son and an uncertain time for my partner...and I will really hurry because I didn't want the Oscar hook. The thought of losing my family was unbearable, especially given our situation in Nebraska of not being recognized as a family. It was unthinkable. But together we made it through that first day and together we went home. And as soon as we figured out how to get him out of the car seat, our new life as just another Nebraskan family began. (Laughter) As a family, we are no different than other families with a newborn. We uploaded his every coo and smile to Facebook. We bored our family and friends with stories of his tiny fingers and toes, sleepless nights, bottle feedings, diaper changes, and minor baby illnesses. And like so many other Nebraskan families, we were faced with an unexpected medical emergency. Just after Jack's first birthday, we learned he needed emergency brain surgery. And again we faced the fear of losing our son with the added fear of worrying about my lack of recognized legal protection to make decisions for him, my son's immediate or possible long-term care. But together we made it through the night and many nights since. Jack will be three... [LB380 LB385 LB485]

SENATOR ASHFORD: Dawn... [LB380 LB385 LB485]

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DAWN CRIPE: ...this month. Thank you. [LB380 LB385 LB485]

SENATOR ASHFORD: Okay. It's not...it's a great story. [LB380 LB385 LB485]

DAWN CRIPE: May I just finish my one sentence? [LB380 LB385 LB485]

SENATOR ASHFORD: Okay. One sentence. [LB380 LB385 LB485]

DAWN CRIPE: Oh, one sentence. [LB380 LB385 LB485]

SENATOR ASHFORD: I wish we could listen to more of it but we have to move...
[LB380 LB385 LB485]

DAWN CRIPE: Oh, you know what? I will submit it. In fact, I'll speak to the media later. But through your support of LB380, you can give Jack and other Nebraskan children the same legal rights as children in Georgia enjoy and that Nebraskan children deserve. Thank you. [LB380 LB385 LB485]

SENATOR ASHFORD: Thanks, Dawn. [LB380 LB385 LB485]

DAWN CRIPE: Thank you. [LB380 LB385 LB485]

SENATOR ASHFORD: I don't see any questions. [LB380 LB385 LB485]

DAWN CRIPE: So much for being a speech professor. Okay, thanks. [LB380 LB385 LB485]

SENATOR ASHFORD: No, you were very good. Thank you for...let's...on this side over here, can we...? [LB380 LB385 LB485]

SENATOR MCGILL: Maybe now would be a good time for everyone to look at their phones and... [LB380 LB385 LB485]

SENATOR ASHFORD: You know, I'm pretty lax when it comes to things like that, but just everybody be conscious of their cell phones and their rings and everything. I won't be...come down hard on them, but. Go ahead. But try to watch it. [LB380 LB385 LB485]

KIMBERLEY TAYLOR-RILEY: I don't think I'll be doing any chiming. I think we're okay. Senator Ashford and committee members, my name is Kimberley Taylor-Riley, K-i-m-b-e-r-l-e-y T-a-y-l-o-r, hyphen, R-i-l-e-y, and I am the director of equity and diversity for the city of Lincoln. I'm appearing today on behalf of the Lincoln Commission on Human Rights in the city of Lincoln in support of LB485. In my role as the director of equity and diversity for the city of Lincoln, I serve as the executive director for the

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Lincoln Commission on Human Rights. For those that are not aware, the Lincoln Commission on Human Rights for more than 40 years has enforced the civil rights of the residents of the city of Lincoln. The Lincoln Commission on Human Rights is available to anyone that believes they've been subjected to discrimination in employment, housing, or public accommodation based upon their protected class status, such as race, color, religion, sex, disability, national origin, ancestry, marital status, or retaliation. Over the last few years, the Lincoln Commission on Human Rights estimates approximately six inquiries per year concerning sexual orientation related to claims, usually in the realm of employment discrimination. In telephone contact with our office and during outreach presentations on housing and employment discrimination, the investigators have been approached by residents regarding the issue, specifically inquiries concerning whether or not sexual orientation is a protected class. Unfortunately, the investigators were required to advise them that there was no recourse at law for them to enforce their right to live and work free from discrimination in Nebraska unless they fell under the umbrella of another codified protected class. In jurisdictions that have enacted similar laws to the one before you today, they have not noted a significant increase in the number of cases handled as a result of the law change. It is my understanding that the human relations department in Omaha has had a similar experience, and we have no reason to believe that other offices across the state would experience a vast increase in complaint filings as a result of the proposed statutory change. Ultimately, the commission and offices like it across the state exist to enforce the civil rights of all the residents of Nebraska. Should you ultimately vote to include sexual orientation as a protected class, our office and others like it are poised and capable of enforcing that statute. On behalf of the city of Lincoln, I urge you to send this bill forward for further consideration by the entire body. And I am available for any questions if you have them. [LB380 LB385 LB485]

SENATOR ASHFORD: Just one quick one. The federal enforcement, EEOC enforcement division, does consider sexual orientation as a...not in and of itself but as a discrimination based on sex, is that correct? I mean, that's what they do? Or how do they do that, or...? [LB380 LB385 LB485]

KIM TAYLOR-RILEY: Well, it's...I'd like to say that it's kind of a blanket protection, but that wouldn't exactly be true. The way that they do it is... [LB380 LB385 LB485]

SENATOR ASHFORD: If someone files or makes an inquiry or files a claim based on sexual orientation discrimination for sexual...based on sexual orientation, are those claims investigated on the federal level on a sexual discrimination basis? [LB380 LB385 LB485]

KIM TAYLOR-RILEY: They can be. But usually it's attached to whether or not the person is failing to comport with gender stereotypes is how they word it. And it's a very small slice of the pie. But that is the piece that if you happen to fall under that, then you

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can be investigated under gender. But "blanketly," it generally is not. [LB380 LB385 LB485]

SENATOR ASHFORD: But if you have a claim that's based on some sort of termination or failure to hire, retention, whatever, and the allegation is that this job action was as a result of a discrimination based on sexual orientation, would that be something, generally, in your experience that would be investigated under the federal EEOC? [LB380 LB385 LB485]

KIM TAYLOR-RILEY: Even under the federal, it's governed by the state law...I mean, by the case law. Because, unfortunately, they too have not expanded the protected classes to include that group. [LB380 LB385 LB485]

SENATOR ASHFORD: Right. I know they haven't expanded the class. But there is some discussion about these cases are investigated under a sexual...or sex discrimination. [LB380 LB385 LB485]

KIM TAYLOR-RILEY: Again, it has to fall under that narrow kind of distinction that they've created through case law. If it doesn't fall into that or if you can't fashion it that way, then it's unlikely to be taken and investigated. [LB380 LB385 LB485]

SENATOR ASHFORD: Okay. Okay, thank you. Thanks for your comment. Yes, Senator Coash. [LB380 LB385 LB485]

SENATOR COASH: I have a question for you. On the current protected classes, and somebody comes to your office and says I feel that I've been discriminated against under the current law, that's your role, right? They come to you and you help...I'm trying to understand the role of the Human Rights Commission and how you assist people who feel they've been discriminated against. [LB380 LB385 LB485]

KIM TAYLOR-RILEY: Well, what we do is we are...we're actually contractors with the federal government. So we enforce the federal law, we enforce the state law, and we enforce the city ordinance. So all of those have distinctive protected classes that have been designated. And we investigate the cases that come in relative to allegations of discriminations on those bases. [LB380 LB385 LB485]

SENATOR COASH: Okay. Where does the...under the current law, where does the burden of proof lie with regard to...let's just use the employer situation. So if somebody is terminated and feels that they were done...that they were terminated because she's old; so age or...well, that would be. [LB380 LB385 LB485]

SENATOR ASHFORD: Be careful. (Laughter) [LB380 LB385 LB485]

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SENATOR COASH: Well, I'm trying to think of a better example. [LB380 LB385 LB485]

SENATOR ASHFORD: Think of a class that may not apply to anybody up here. [LB380 LB385 LB485]

SENATOR COASH: My question is, where does the burden of proof lie? Does the employee have to prove that they were discriminated against or does the employer have to prove that they didn't? I mean, where do we...in the current law where do we...who do we put the burden of proof on? [LB380 LB385 LB485]

KIM TAYLOR-RILEY: Well, the employee doesn't have the burden of proof...well, it's hard to explain the burden of proof because that's kind of a legal premise that really only happens in a courtroom. So outside of the courtroom we really don't do that. When we're investigating a case, what happens is that the employee has to come in and give us a claim that seems colorable under one of the protected classes. So they have to allege sufficient facts for us to believe that perhaps something has occurred here. If that's the case, then the investigation is undertaken. So what happens is the employer is notified that someone has come in and filed a claim and what the nature of the claim is. The employer is then given an opportunity to respond, and there's usually a request for protection of documents and then a request for witness lists and other things, documentation that we need to review. The employer is given time to do that and they submit that documentation. Once that happens and that's reviewed, if they need to interview witnesses then that will be done and all of that information is gathered. Once that happens, the employee is then contacted and allowed to come back in, talk with that investigator, and discuss this is what the evidence is. And they get an opportunity to establish whether or not they think that's pretext. In other words, the employer has an opportunity to give you a legitimate, nondiscriminatory reason for having taken their action. Then the employee comes back in and says, okay, that's not really what happened; let me tell you what really happened. And then they try to present whatever they may have to overcome that. So it's a shift that goes back and forth. Initially, it's what the employee has to tell us. Then it shifts to the employer to give us their side of the story. Then it shifts back to the employee to rebut what's been presented. Does that make sense? [LB380 LB385 LB485]

SENATOR COASH: Yes, it does. Thank you for answering that. [LB380 LB385 LB485]

SENATOR ASHFORD: Thank you; thanks for your testimony. Sir. [LB380 LB385 LB485]

IAN WILL: Ian Will, I-a-n W-i-i-l. I'm speaking on behalf of LB485. I am just speaking as a private citizen. Ladies and gentlemen, this issue is important. This summer I had the opportunity to change jobs, and as a gay man I find this hard. I always wonder what's going to happen. Fortunately, the company I work for has a policy that protects me

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should anything happen. I can be open in my work. I don't have to hide. I don't have to lie. I don't have to pretend that I'm something I'm not. I am gay. I just want to work. I just want to be a private citizen. I want to contribute to society. I want to be productive. But under the current law I have to lie. I don't want to have to do that, and there's so many in this room who prefer not to. The issue of discrimination is not of whether or not it's gay or not. The issue here is, are there gay people? Yes, there are people. Protected class? I don't choose to be gay. I don't want to be gay but I am. I can't change that despite (inaudible) prayer or how much people argue. This is my case. I am gay and I like it, and I thank Senator Chambers for his courage in bringing this bill forward. Thank you. [LB380 LB385 LB485]

SENATOR CHAMBERS: I just... [LB380 LB385 LB485]

SENATOR ASHFORD: Senator Chambers. [LB380 LB385 LB485]

SENATOR CHAMBERS: I have one correction to make. In my view, courage occurs only when a person is afraid and acts despite being afraid. Never have I felt any fear, any reluctance, or "apologeticness" for doing what I think is right. My view is that anything born of a man and a woman is a human being. There are certain rights that every human being has. There's a basic dignity that attaches to every person upon birth, and that dignity means that when a society is going to bestow rights and privileges, those rights and privileges must be extended to every human being without regard to race, creed, color, marital status, or sexual orientation. [LB380 LB385 LB485]

IAN WILL: And thank you for starting this conversation. [LB380 LB385 LB485]

SENATOR CHAMBERS: Okay. [LB380 LB385 LB485]

LEX ANN ROACH: (Exhibit 16) Good afternoon, Senator Ashford and committee members. I am Lex Ann Roach, and that is spelled L-e-x A-n-n and then Roach like the bug. I represent the Central Nebraska Human Rights Coalition. We are a diverse, grass-roots coalition representing gay and straight, young and old, different races and faiths that have all come together to advocate for equal rights for all citizens in the tri-cities area. The Central Nebraska Human Rights Coalition supports LB485 and asks that this committee do the same. According to the Pew Research Center, six in ten Americans say they have a gay or lesbian friend, colleague, or family member. In context, this means that 1,020,000 Nebraskans have a personal connection to the estimated over 83,000 gay, lesbian, and bisexual residents of the state. Attitudes excluding gays and lesbians from our state deter young LGBT professionals from making their home here, and therefore compromise Nebraska's future. Our state cannot endure the exclusion of the gay and lesbian community and its allies. The vitality of this state rests on the shoulders of the millennium generation who will not choose a home where the equal treatment of gay and lesbian citizens is only implied. The passage of

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LB485 would provide a clear statement that Nebraskans are hired for jobs based on qualifications and not orientation. The integrity of our society has never been diminished by affirming the value of all citizens to contribute in the workplace. This bill gives the One Hundred Third Legislature an historic opportunity to prove Nebraska's state motto: Equality Before the Law. And it remains relevant in the twenty-first century, so please vote in favor of passing LB485. [LB380 LB385 LB485]

SENATOR ASHFORD: Thank you. Don't see any questions. Thanks. [LB380 LB385 LB485]

LEX ANN ROACH: Thank you. [LB380 LB385 LB485]

SENATOR ASHFORD: I wish you didn't all have to stand up. Is there...are there places to sit and you can remember what order you're in? [LB380 LB485 LB385]

SENATOR CHAMBERS: I don't think they mind standing for what they believe. [LB380 LB485 LB385]

SENATOR ASHFORD: No, I know they don't mind doing it but I... [LB380 LB485 LB385]

SENATOR CHAMBERS: I know. I know. [LB380 LB485 LB385]

BETH RILEY: (Exhibit 18) Senator Ashford and members of the Judiciary Committee, my name is Beth Riley, B-e-t-h R-i-l-e-y, and I am the executive director for Inclusive Communities, formerly NCCJ, a human relations organization whose mission is to confront prejudice, bigotry, and discrimination through educational programs which raise awareness, foster leadership, and encourage advocacy for a just and inclusive society. Our organization was established in Omaha in 1938 by Senator Ashford's grandfather and three of his colleagues, and over the past 75 years we have remained focused on a society strengthened by diversity, inclusion, respect, and justice for all people. We have worked tirelessly to educate youth and adults to be tolerant and inclusive, to be leaders and allies. We believe in coming together to build a society where all people, not just some people, live and work with peace, dignity, mutual acceptance, and respect. In being true to our mission, Inclusive Communities is here to support LB485. This bill sends a strong message to people throughout our state and our nation that Nebraska is a state which values all people, recognizes the competitive advantage of diversity in our workplaces, and understands the economic and cultural impact of having legislation which supports inclusion. The caveat to Inclusive Communities' support of LB485 is that we do feel it falls short. Inclusive Communities is a proud member of Equal Omaha, a coalition of community groups, nonprofits, and concerned citizens who organized the effort behind Omaha's comprehensive equal employment ordinance in 2012. Equal Omaha submitted a letter offering neutral testimony today based upon the same concern Inclusive Communities shares. In its current form, LB485 includes protection

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based on sexual orientation, but does not include protection based on gender identity or gender expression. This addition is of paramount importance because of legal challenges which have occurred in other states, as well as many studies which have demonstrated the group most impacted by discrimination in the workplace are those who are transgender. Amending the bill to include gender expression and gender identity would remedy those concerns and provide significantly more support for LB485 as it advances to the full Legislature. A 2012 study examining transgender Nebraskans revealed that nearly half of respondents had experienced some form of discrimination in a job at least once; 36 percent had been discriminated against by an employer, boss, or supervisor; and more than 40 percent experienced discrimination from a coworker. Inclusive Communities believes it's imperative to have employment protection for everyone. We hope you will make this legislation full-proof and comprehensive to consider the needs of heterosexual workers as well as those in the LGBTQ community. We'd like to thank Senator Conrad, Senator Chambers, and to those on this committee for your leadership in considering this important legislation. Inclusive Communities sincerely hopes you will advance this bill and amend it to include gender expression and gender identity. [LB380 LB485 LB385]

SENATOR ASHFORD: Senator Coash. [LB380 LB485 LB385]

SENATOR COASH: Thank you, Senator Ashford. Can you expand a little bit on the legal challenges that you mentioned in your testimony that have happened in other states? What has occurred? What was the basis of those challenges? [LB380 LB485 LB385]

BETH RILEY: When we looked at...when we looked at it in Omaha and when we've conferred with people from the Human Rights Campaign who are really kind of the experts in our field on that, having gender expression and gender identity they believe is the best opportunity because there have been cases where people have brought it forth and they've been transgender, and there's a question of whether or not that falls under sexual orientation or not. And so we think that it's best to have the clearest language possible and put that forward. I don't have specific case law to present to you. I know Senator Conrad has had conversations with the national experts on that. But that's the conversation we've had with her and with our colleagues from Equal Omaha about what needs to be included to make sure that we make one fell swoop of this instead of having to come back and have this conversation and debate again. [LB380 LB485 LB385]

SENATOR COASH: I understand, I think I understand transgender from the perspective of a biological perspective, but what is gender expression? [LB380 LB485 LB385]

BETH RILEY: So oftentimes a person is in that transition phase where they're trying to transition from one biological place to another and they're not there yet, so that might be an episode of gender expression. And so that's been kind of the clarification that I

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understand. [LB380 LB485 LB385]

SENATOR COASH: So this is a person who is biologically one sex but identifies as another? [LB380 LB485 LB385]

BETH RILEY: Exactly. [LB380 LB485 LB385]

SENATOR COASH: And then...and then this law would...if it were extended to be as specific as you're suggesting, this law would expand to protect that person in the workplace? [LB380 LB485 LB385]

BETH RILEY: Right. [LB380 LB485 LB385]

SENATOR COASH: And that's... [LB380 LB485 LB385]

BETH RILEY: Those folks typically identify as transgender. And like I said, those have been the highest incidents of reports of discrimination in the workplace. That was a study commissioned by UNMC last year. I think that, you know, there is that transition period, and some people that transition goes for a number of years and some people it's a relatively quick transition. I've personally encountered that and seen that with high school youth and kids who are real young who I've seen in our programming or friends of kids who have come through our programming. [LB380 LB485 LB385]

SENATOR COASH: Do you think that would...do you think that would be confusing for employers and is that why you're suggesting that would be included? [LB380 LB485 LB385]

BETH RILEY: I think that employers should make hiring and firing and performance-based decisions based on a person's qualifications and the quality of their work, not based on any other criteria. But I think that that particular loophole in the law could be challenging for...I think a person shouldn't have to go through a series of lawsuits and things like that to have an employment discrimination case heard. [LB380 LB485 LB385]

SENATOR COASH: And it's your understanding that that's what's happened in other states. [LB380 LB485 LB385]

BETH RILEY: It is my understanding that's what's happened in a number of cases. [LB380 LB485 LB385]

SENATOR COASH: Okay. Thank you. [LB380 LB485 LB385]

SENATOR ASHFORD: Thanks. [LB380 LB485 LB385]

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BETH RILEY: Thank you. [LB380 LB485 LB385]

SENATOR ASHFORD: My grandfather would be proud of the work you're doing, so... [LB380 LB485 LB385]

BETH RILEY: Thank you. [LB380 LB485 LB385]

SENATOR ASHFORD: ...keep it up. Let's go to the next. Yeah. Okay. [LB380 LB485 LB385]

JAMES BOWERS: (Exhibits 19 and 20) My name is James Michael Bowers, B-o-w-e-r-s, and I am testifying on behalf of the National Association of Social Workers, Nebraska Chapter, in support of LB380, LB385, and LB485. One of the questions in front of us today is not why should the state of Nebraska allow two adults to jointly adopt a child but why would the state of Nebraska want to deny a child such a privilege of having lifelong connections with another supporting adult? Allowing two adults to jointly adopt a child helps ensure that children have access to private healthcare, a sense of normalcy, and the ability to stay in the home during the times of unfortunate circumstances, such as a parent death. A child being the legal responsibility of two individuals lessens the likelihood that the state will eventually become the guardian due to unexpected life events, such as injury, illness, or death. To make a motion against this bill implies that a child being raised by two parents, regardless of sexual orientation or gender identity, is more harmful than alternatives such as foster care. In addition with foster care, what struck me as interesting is when reading...is that the process of being removed from their home is a traumatic experience to the youth. This trauma is further exacerbated when youth have to be placed in foster homes with strangers, with individuals who are unable to understand cultural differences, in an institution or group home, or an emergency shelter that will hold them until placement is found. Discriminating on the basis of sexual orientation or gender identity, in terms of foster care and adoption, means that we as a state are diminishing a youth's pool of people that they can rely on for support. When a child is placed with family members, it reduces the risk of...it reduces the risk of additional moves to different placements. Every move increases the likelihood that this child will experience lower self-esteem, behavior issues, and aggression. Each placement can set a child back one academic year and one development year. There is zero reason to force a child to be placed in an emergency shelter or to stay with someone they do not know when they have a brother, cousin, or aunt who is willing to take them in, especially when the only reason and the only basis of them being refused placement is that they have a partner who is able to contribute to a household. People who are LGBT can effectively parent, can effectively provide safe environments, and can effectively work. Currently, 21 other states and the District of Columbia prohibit discrimination based on sexual orientation. More importantly, hundreds of companies have created policies that protect their lesbian, gay,

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bisexual, transgender employees. Companies such as Dell, Pfizer, Coca-Cola, Time Warner, and Yahoo! have already realized the importance of making the determination about a person's employment from their performance as an individual, not the identifying markers of who they are. This is something that we as a community are responsible for and this issue will not go away. We do hope that Nebraska will join other states that have made similar policies. The LGBT population is not going away and we hope that this will become the 22nd state to enact such a policy, not the 50th. [LB380 LB485 LB385]

SENATOR ASHFORD: Thank you. I don't see any questions. Thanks for your comments. [LB380 LB485 LB385]

JAMES BOWERS: Thank you. [LB380 LB485 LB385]

SENATOR ASHFORD: Next witness. [LB380 LB485 LB385]

JILL LISKE-CLARK: (Exhibit 21) Good afternoon. My name is Jill Liske-Clark, J-i-l-l L-i-s-k-e-hyphen-C-l-a-r-k. I'd like to offer just one voice from Nebraska's business community in this conversation we're having about LB485. I support LB485 because it is only fair that individuals should be judged in the workplace strictly based on their performance, not their sexual orientation. As a business owner, I'm not concerned about the possibility of frivolous discrimination lawsuits against employers as a result of passage of this bill. Our EEOC process has functioned well in resolving issues related to other forms of workplace discrimination prior to filing of lawsuits. I fully expect that it will function just as well to address issues related to discrimination based on sexual orientation. Again as a business owner, I am more concerned about the image that we project to employees from both within and outside of Nebraska. If we are to attract and retain the best and brightest workers, we must be inclusive and welcoming, not exclusive and hostile. Passage of LB485 is not just an issue of fairness. It is also an economic development issue that we need to address for Nebraska to remain competitive both nationally and globally. [LB380 LB485 LB385]

SENATOR ASHFORD: I don't see any questions. Thank you very much. [LB380 LB485 LB385]

SENATOR MCGILL: Oh, one. [LB380 LB485 LB385]

SENATOR ASHFORD: Senator Chambers has one actually. [LB380 LB485 LB385]

SENATOR CHAMBERS: My faith in the possibility of the business community being redeemed has been somewhat strengthened today. So thank you. (Laughter) [LB380 LB485 LB385]

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JILL LISKE-CLARK: Thank you, Senator Chambers. It's an honor. [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay. [LB380 LB485 LB385]

SENATOR ASHFORD: Okay. [LB380 LB485 LB385]

BRIAN WHITECALF: My name is Brian Whitecalf, B-r-i-a-n W-h-i-t-e-c-a-l-f. I am from Grand Island, Nebraska, and I wanted to bring up the religious discussion. I was raised in Nebraska for the majority of my life. I started attending church at a young age. I believe Jesus Christ is my personal lord and savior. At age 14, I was baptized in the Pentecostal and charismatic faith. I was spirit-filled at age 15, and I felt a calling into ministry, more over into seminary and Bible college. At that time, I felt free to identify myself to my church and my pastor that I was gay. Since that day, my morality has been in question at every single church meeting that I've ever attended where the question is, why do you not have a wife? I believe that I have suffered religious persecution for nearly 15 years of my life. I believe that I have suffered spiritual violence against my spirit and soul for the vast majority of that time. Somewhere in the recent years, I came in contact with an organization known as PFLAG, Parents, Families and Friends of Lesbians and Gays. I belong to the local chapter of Hastings, Nebraska, PFLAG. Since that time, I have been elected to their board and I am their outreach coordinator. Today, they would like me to let you know that they are in support of LB485 and they also would like to support gender identity and gender expression as part of that law. But they will support any law helping individuals who are gay, lesbian, bisexual, or transgender. I'm also a board member of Nebraskans for Peace and they would also like to voice their support of LB485 because they believe it is a quality of life issue. I know there's concern that the vast majority of Nebraskans will not support these bills. I belong to several committees and somewhere in the process I was empowered to make change in my community. In the recent nine months, we started some action items. I created an event, a gay pride section in the Hastings community Kool-Aid Days Parade, with overwhelming support of us. I also joined in with an event, a gay day at the State Fair, hoping that all Nebraskans had a chance to come from small towns and find someone that they could be relatable to. I also created a gay pride section in the Harvest of Harmony Parade. In that time period also I came in contact with my former city council member, Larry Carney of Grand Island, and we enacted legislation to create an employee nondiscrimination ordinance within the city of Grand Island. Unfortunately, some of the city council members were unable to pass that law, but brought it back for all city employees of Grand Island to be protected on the basis of sexual orientation. [LB380 LB485 LB385]

SENATOR ASHFORD: Brian, I'm going to ask you to stop and see if there are any questions so that we can...but thank you. There don't seem to be any questions, but we appreciate your testimony. [LB380 LB485 LB385]

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BRIAN WHITECALF: I invite all of you to gay day at the State Fair and hope to see you all there. (Laughter) [LB380 LB485 LB385]

SENATOR ASHFORD: Okay. Thank you. I love the State Fair. [LB380 LB485 LB385]

GUILLERMO PENA: Well, hello. [LB380 LB485 LB385]

SENATOR ASHFORD: Hi. [LB380 LB485 LB385]

GUILLERMO PENA: My name is Guillermo Pena, G-u-i-l-l-e-r-m-o P-e-n-a. I stated my name. I know everyone on this floor has had many job experiences, but during every single job experience I have had, I have a list. I have to lie. I have to hide. And I have to fear. Why do I have to fear being myself? I should not fear losing my job. I should not lie to keep it. And I certainly should not hide myself to sustain it. This bill, LB485, not only helps me but the Nebraska economy by making professionals feel welcome in Nebraska. Make Nebraska and its visitors know we do offer the good life by making history today and truly choosing equality before the law. I'm an LPN. I run an apartment complex. Do you want to keep me or do you want me to go? As a society, as a whole, we should keep people like me. Defend us. I've had experiences where I wore a nursing hat. I got, oh, you shouldn't wear that; you're male; oh, you shouldn't wear that; you shouldn't do that. It got me my job fired. I got fired for that. I went to the EEOC but, unfortunately, the state of Nebraska does not cover that. Federally it might, but in the state of Nebraska, no. I felt oppressed. I was crying. I did not like it. I still throughout this day, I should not be discriminated for wearing a nursing hat. I should not. And always remember that. I'm sorry if I get emotional. I don't like remembering that. And when that happens, I don't want it happening to nobody else. I should have just been, you know, there's other ways than firing. What this job told me is that I had lied on my application and that was the reason. I had lied on my application. Now tell me who hasn't lied on their application in their lifetime. (Laughter) I'm sorry. I hope you pass LB485 and I'm hoping this committee passes it through with gay adopt...not gay adoption, with second-parent adopting as well. I'm hoping to have a future. I came from Texas. I live in Nebraska. I've been here almost a decade now and I'm hoping to make a future. Thank you. [LB380 LB485 LB385]

SENATOR ASHFORD: Thank you. [LB380 LB485 LB385]

SENATOR CHAMBERS: What was the lie that you were accused of having told on your application blank? [LB380 LB485 LB385]

GUILLERMO PENA: I had not previously put another job that I had worked for, and that was my lie. [LB380 LB485 LB385]

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SENATOR CHAMBERS: That you had not what? [LB380 LB485 LB385]

GUILLERMO PENA: I did not apply...I worked for another nursing home and I didn't put it on my application and that was my lie. [LB380 LB485 LB385]

SENATOR CHAMBERS: So the failure to put something on your application was the lie. [LB380 LB485 LB385]

GUILLERMO PENA: Yes. [LB380 LB485 LB385]

SENATOR CHAMBERS: And the last job you had you were actually fired from? [LB380 LB485 LB385]

GUILLERMO PENA: That was the job I got fired from, for the hat. [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay, and it was for wearing a hat. [LB380 LB485 LB385]

GUILLERMO PENA: Yeah. [LB380 LB485 LB385]

SENATOR CHAMBERS: Are you competent as a nurse? [LB380 LB485 LB385]

GUILLERMO PENA: Yes, I am. [LB380 LB485 LB385]

SENATOR CHAMBERS: If I had an ailment and you could treat it, I wouldn't care what hat you wear. I want to know, can you treat me just as? I have not a corpuscle of religion in my body. If I needed a heart operation, I wouldn't ask the doctor, are you Catholic, Baptist, Methodist, or Presbyterian. I'd want to know are you a competent surgeon. So what you say I think highlights the problems that exist, but as yet Nebraska has not reached as a society the level of maturity and understanding that marks an evolving society. But people who, like you, are willing to come before everybody and express what you have will bring us a step closer to that goal. So you shouldn't feel that what you said today is in vain or that all the bad experiences you've had necessarily diminish you. I know people will say often if it doesn't kill you, it will make you stronger. Well, in your situation and in my situation, we sometimes feel like saying if it doesn't kill us it makes us tired. (Laughter) That's all I have. Thank you. [LB380 LB485 LB385]

GUILLERMO PENA: Thank you. [LB380 LB485 LB385]

SENATOR ASHFORD: Okay. [LB380 LB485 LB385]

SENATOR MCGILL: I hear you on that. [LB380 LB485 LB385]

TODD RUHTER: (Exhibit 22) Senators, good afternoon. My name is Todd Ruhter,

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T-o-d-d R-u-h-t-e-r, and I'm speaking today in favor of LB485, in fact, strong support of LB485. As a lifelong Nebraskan and sometimes resident of other states, I have a variety of experiences in a diverse spectrum of employment. I began my work history in 1967 on day one in the field of production agriculture on a small family farm and cattle operation in Prosser, Nebraska. I worked as a server and bartender through my years in college where I invested a large amount of money in education from the University of Nebraska in Lincoln. After that, I wrote for a lobbying firm in Washington, D.C.; returned home after that to help out my family in their operation. Since then I've been involved in the hospitality industry in Seattle and Denver, and four years ago I returned back home here; I now reside in Grand Island near my family and my home. During the years that I spent developing the skill sets that make me a valuable employee and a contributing member of this state, I became acutely aware of the fact that no matter how good I became at my job, no matter how much money I invested in my education, no matter how productive and loyal I was to my employer, how much I contributed to my community, as a gay man I am always at risk of losing my job should my employer determine their dislike for my being gay or their incorrect assumption that my gayness somehow overrides my qualifications and dedication to both my job and my community as a whole. Every day gay and lesbian Nebraskans live a life of job insecurity. LB485 offers some measure of relief to that burden for those of us who wish nothing more than to be treated fairly. An employer in Nebraska is afforded great freedom to choose who they retain under their employment, due primarily to the fact of Nebraska's status as a right-to-work state. I maintain that as a gay citizen and employee, I am due a similar consideration, i.e., a right to access and maintain gainful, productive employment. LB485 does not extend special rights to gay and lesbian Nebraskans or me. It provides the opportunity for me and the over 80,000 gay men and women in this state to be judged by the quality of our contribution to the economy and our society through our dedicated efforts in the workplace, not by supposition and mistaken opinions and beliefs about our qualifications based on our personal lives. I have personally experienced the cost and consequence of being excluded from employment because of my sexual orientation, not my ability to perform my duties. And I and over 145 other Nebraskans in the tri-cities area--Hastings, Grand Island, and Kearney--have signed this to show their...add their names in support to LB485. I and them all urge you to support LB485 and to stand for fairness in the workplace. End. [LB380 LB485 LB385]

SENATOR ASHFORD: Thank you. Thank you for your comments. [LB380 LB485 LB385]

TODD RUHTER: Thank you. [LB380 LB485 LB385]

SENATOR ASHFORD: Sarah. [LB380 LB485 LB385]

SARAH FORREST: (Exhibits 23 and 24) Good afternoon, Senator Ashford and members of the Judiciary Committee. My name is Sarah Forrest, S-a-r-a-h F-o-r-r-e-s-t.

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I'm the policy coordinator for child welfare and juvenile justice at Voices for Children in Nebraska. And I'm here today in support of both LB385 and LB380, two bills which will positively impact the health and well-being of some of Nebraska's most vulnerable children and youth--those in our child welfare system. Combined, these bills give our children the best chance of permanent, loving homes and makes sure all options are on the table for them. Some of the previous testifiers have already alluded to some of these statistics, but I'll briefly reiterate. We have a need for safe, loving foster homes and placements. We're losing foster homes. There was a 7 percent decline in 2011. And especially as we look to reduce our use of congregate care in institutions, we have a higher rate than the national average of using those placements, we need to make sure that all options are on the table and that we can properly place kids with a foster family home that will do their best to support them so we can also reduce placement instability. We need to make sure that we have permanent, loving homes for children who are available and waiting for adoption. We have over 800 children who are available and waiting for adoption in Nebraska, many of them teenagers, many of them children of color, who are moving from place to place until eventually they will age out of our foster care system without support and loving connections to adults. With so many homes waiting to take these children and provide them love and support, it's a tragedy that we cannot ensure that all options are on the table when we know the benefits and the research has proven that children can so benefit from these moves. LB385 and LB380 both continue our child welfare reform and ensure that all safe, loving homes are options for Nebraska's children and youth. They contribute to their permanency, their placement stability, their security, and their ability to have lifelong loving, supportive connections, which will ensure their future success. I would welcome any questions. [LB380 LB485 LB385]

SENATOR ASHFORD: I don't see any. Thanks, Sarah. [LB380 LB485 LB385]

SARAH FORREST: Thank you. [LB380 LB485 LB385]

CARRIE GARRISON: (Exhibit 25) Good afternoon, Senators. My name is Carrie Garrison, C-a-r-r-i-e G-a-r-r-i-s-o-n, from Omaha, Nebraska. I'm here in support of all three bills: LB380, LB385, and LB485. Thank you for allowing me the opportunity to speak today. Before I begin, I would like to take a minute to tell you just a little bit about myself. I am not part of any organization here today. I'm just a mother, 36 years old; a mother of four children, ages 17, 12, and 6-year-old twins; married to my wife Andrea with whom I am coparenting and also very successfully sharing those duties with their father, Thomas. Some people go their whole life without knowing their purpose. Mine is to be a great mother. What makes a family-like setting? It's something to ponder when trying to define it for a child's welfare. Well, there are preconceived notions about this and then there are actual real-life examples. My family happens to be one of them. Andrea and I are moms. We have a daily routine. Our home is filled with love and mutual respect, and we take our children to school, attend parent-teacher conferences

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and violin or dance recitals. We play cops and robbers with the twins, and eat popcorn while snuggled up on the couch in homemade blankets while watching Finding Nemo. Everything we do in our lives comes with the careful consideration for the safety and stability of our children. In truth, my family is like any heterosexual household. There's discipline when my 17-year-old breaks curfew and when my 12-year-old fails to clean her bedroom. We encourage open dialogue and community support, and most of all we love them. Our family near and far is large and well-rounded with extremely diverse, stable, and loving relationships from both male and female role models. Is the 1950s traditional family life setting still a practical basis for debating such an important need within the state? There are too many children who absolutely need loving, permanent homes. Andrea and I would like to foster children, but at this point we can't because we live in the same household. Also existing is an immediate need for children, who are openly gay themselves, to be given the opportunity to be placed in a gay household at their own request, allowing them to feel more comfortable as a child, and learn that it is okay to love themselves. These children deserve support, encouragement, and most of all they need to know that they will have a family network to fall back on. We need this bill to be given serious consideration. Before this bill passes, so many children will not be afforded the privilege of having a permanent family before aging out of the system, and we're failing those children before they even become adults. Any time a child can grow in a home where they have the love of parents that can guide them and help them get off to a good start in life, that can be a good thing. That is what would serve the children's best interest regardless of the foster or adoptive parents' sexual orientation. Thank you once again, and I would be happy to take any questions. [LB380 LB485 LB385]

SENATOR ASHFORD: I don't see any questions. Thank you. [LB380 LB485 LB385]

CARRIE GARRISON: Thank you. [LB380 LB485 LB385]

LUCAS PETERSON: Good afternoon. My name is Lucas Peterson, L-u-c-a-s P-e-t-e-r-s-o-n. I like to go by Luke. I am 28 years old. I live here in Lincoln in LD46, originally from the Phelps-Gosper County line of Nebraska, and I am also an openly gay man. I am here to support LB485, by...who was introduced by my state senator, Danielle Conrad. I don't have any written testimony today but I do want to share my life story of what it means to be a second-class citizen in the state of Nebraska. It is my belief that I've been fired for...it's my belief that I've been fired three times for being openly gay. The first time that I was fired, I was a college student in Crete, Nebraska, and it happened in 2005. I recently came out as gay and my employer at the time found out, pulled me aside at the local fast-food restaurant that I was working at just to earn some cash on the side, and told me two statements that I'll never forget in my life. He told me that he doesn't condone my unmoral behavior and that I have a questionable character. I wish I could take those statements back. I wish I never had been told that. I had no reason to know why he fired me besides the fact that he outlined that I'm a

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questionable character and he didn't condone my unmoral behavior; let me go right off then and there. The second time that I was discriminated in the workplace was here in Lincoln and I was working at a local consignment shop in the Haymarket, selling wine actually. And one night when it was my night off, I brought in a date into this consignment shop, something casual, nothing really big deal, and the owner of the store found out that this was more than a casual call. And the day after I was off the schedule, no notice, no acknowledgement, no response. I asked the owner, when is the next time am I coming into work, and didn't even dignify me with saying, sorry, you're not hired here anymore or you no longer work here. And I wish I'd know the reason why she fired me. The third time is the most egregious and capricious and the one that I consulted an attorney with. I was working in a behavioral health center for substance abuse and alcoholism. Being sober from narcotics myself for seven years now, I kind of figured that I was a little qualified for a peer-related job. One day I was reading the obituaries randomly and I saw that my best friend in college died of pneumonia and I went to the funeral, which was the day preceding, and the employer pulled me aside and said, I'm sorry, we can't have you going to a funeral because a friend died. And to me, it felt like I was being disparately...disparate treatment in terms of the conditions that I had, and I was never told why I was being fired. But I see that my light is up and just wanted to share that experience with you. I really wish that LB485 would pass and if it does not I probably will move out of the state. [LB380 LB485 LB385]

SENATOR ASHFORD: Thank you. Any questions? Thank you, Lucas. Okay. [LB380 LB485 LB385]

TYLER RICHARD: (Exhibits 26, 27, and 28) Good afternoon, Senators. My name is Tyler Richard, T-y-l-e-r R-i-c-h-a-r-d, and I am president of Outlinc, a gay and transgender community center in Lincoln that supported the fairness ordinance that was mentioned by Councilman Eskridge earlier today, and we are here to testify in support of LB485. Before I get into a little bit of the Outlinc history with this, I want to share why this is an important issue to me personally. I was born and raised in Omaha, and my mom worked overnights and then during the day volunteered as a union steward. So during the day, I got to hear stories from her, talking about coming home, having someone who put in a good day's work, and then didn't get fair treatment. The people that my mom talked about, they had her. They had an advocate that they could go to that would help them out. Unfortunately, as we heard from Kimberley Taylor-Riley earlier, for gay and transgender people in Nebraska, there is not an advocate that they can turn to when something like this, when an unfair workplace situation happens and know that they will be able to have their situation dealt with. In the packet that I presented to you there are a number of stories that Outlinc, over the course of the past year, has received for why the protections for gay and transgender people are so important. I want to highlight three things from those stories. Number one, from David, a gay man: Laws do more than prescribe behavior; they also send messages. I get the message that I don't belong in Nebraska. And an anonymous transgender person: I

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experienced very little discrimination as I transitioned in Nebraska, and I know that my case was neither common nor typical but it was quite open, and with that openness came a lot of fear, fear for my personal safety and fear for my future job prospects. There are many people like myself in Lincoln. Janette, a transgender woman: The company I worked for was supportive on the surface at the corporate level, but my boss thought it was okay to make jokes about me and wouldn't allow me to stand up for myself. My coworkers took it upon themselves to out me to everyone they could, without my consent, and treat me as if it were some sort of joke. The other handouts that I provided, one is a definition list from the American Civil Liberties Union for definitions that Senator Coash was asking about earlier that have been found to have pretty minimal back and forth in litigation, that provide investigators with a fairly clear idea of how to respond to situations. The other one is a statement from Reverend Stephen Griffith who organized a group of two dozen clergy members who, unlike the situation Brian was talking about earlier, would be happy to have a gay or transgender person in their congregation. Do want to point out for the record that that clergy statement was signed by clergy that were in support of an ordinance that had both sexual orientation and gender identity in it. And Outlinc's support is for a bill that would have both sexual orientation and gender identity in it as well. With that, I'm happy to answer any questions. [LB380 LB485 LB385]

SENATOR ASHFORD: I don't see any. Thank you, sir. [LB380 LB485 LB385]

TYLER RICHARD: You're very welcome. Thank you. [LB380 LB485 LB385]

SENATOR ASHFORD: Okay, this will be the last...and I think it may be the last. [LB380 LB485 LB385]

RICHARD MACIEJEWSKI: Thank you. [LB380 LB485 LB385]

SENATOR ASHFORD: No one else is in line, but thank you for... [LB380 LB485 LB385]

RICHARD MACIEJEWSKI: My name is Richard, R-i-c-h-a-r-d, J. Maciejewski, M-a-c-i-e-j-e-w-s-k-i. Thank you, Senators, for taking the time to hear us. I'm here to testify in favor of all three bills. I would like to, first of all, just give you a little bit of background. I'm here as my own individual self, but I also am a clergyman and a counselor, and I also am a board member of Nebraskans for Peace, and I'm also the state chaplain of Parents Without Partners, so. First of all, LB485 is a bill that we need to ensure people about the safety of their employment. You've heard several stories from individuals talking about how they lost jobs. And, Senator Chambers, I know that you're passionate about you have to be true to yourself. But when your livelihood depends on a paycheck and you're afraid that your paycheck is no longer going to be around if you get outed, as it's called, or if you reveal that you're gay, that has a lot to do with what you feel you can and you cannot do. It has a very powerful influence on you

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and a number of the people who testified have already said how fearsome that sometimes can be. Thank God there is a change in the last ten years. It's amazing the change in the attitude of most people about gay/lesbian issues, and we're happy for that. We're glad to see the progress that's been made there, but we still have a long ways to go in employment discrimination and bullying. And I'm happy that Nebraska has been passing some laws and attempting to pass laws about bullying. I'm really tired, as a clergyman, for young people that I've worked with and the suicides I've seen because they were not accepted and were afraid or felt they would never be accepted and life seemed hopeless. And I'm really glad that we're passing laws on nondiscrimination as well as in bullying, because that has a lot to do as well with people who feel safe about our environment and safe in their place in Nebraska. Secondly, as I say, I'm really in for LB485. It's great that the bill has been brought. And I want to commend the senators who originated LB385 and LB380. I'm glad that somewhere we're starting to do some particulars about how we handle adoptions and how we handle situations with children who need foster care. As Parents Without Partners chaplain, believe me, you can get really, really complicated with your kids, my kids, and our kids when there's been two divorces in a marriage. You want to see something get really crazy, believe me, that can get really crazy about who's got custody and who's going to retain custody. So those two bills at least are a start to give some structure to that because it gets, believe me, it gets really, really not only crazy but very, very angry in that process as people try to determine, after divorces, who's going to take care of the kids. The principle that we need to guide from, and I like the legislation and what it says, the principle is know what we need to do in foster care and what we need to do in parenting and adoption is what are the characteristics, what are the good qualities of people. [LB380 LB485 LB385]

SENATOR ASHFORD: Thank you. Thank you, sir. Thank you for your testimony. [LB380 LB485 LB385]

RICHARD MACIEJEWSKI: Thank you. [LB380 LB485 LB385]

SENATOR ASHFORD: We'll now go to the opponents of any of the three, any or all of the three bills. Mark, I had... [LB380 LB485 LB385]

SENATOR LATHROP: Can you get hands, see how many people? [LB380 LB485 LB385]

SENATOR ASHFORD: Yeah, how many do we have that wish to testify against the bills? [LB380 LB485 LB385]

SENATOR LATHROP: That are actually testifying. [LB380 LB485 LB385]

SENATOR ASHFORD: That are actually going to speak? There may be others who have an interest in them, but who are actually going to speak? Okay, Mark, if you want

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to. [LB380 LB485 LB385]

MARK ASHTON: (Exhibit 29) Thank you, Senator Ashford, for inviting me to testify here today. My name is Mark Ashton, A-s-h-t-o-n, and I serve as the lead pastor at Christ Community Church in Omaha, Nebraska. We have a congregation of approximately 4,300 people that we serve on a Sunday morning, and then thousands of others throughout Omaha during the rest of the week. I'd like to say that our church is passionately against discrimination and we have many gays who attend our church. We're for equal treatment in the workplace based on performance and competence and equal protection under the law. However, LB485 moves us from equal protection under the law to special protection under the law, and I believe it inadvertently creates more discrimination than it prevents. It's problematic on four levels. The first one is, if LB485 passes, it prevents contracts between Nebraska and organizations that have a strong sexual ethic. You think of organizations like Omaha Street School, the Hope Center, the Open Door Mission. These organizations would be prevented from accessing any amount of fund-raising from the state level based on the fact that they decide to hire people according to the Christian ethic. Beyond that, my second issue is that businesses with a Christian mission would be required to hire people against their conscience. You think of businesses like the Parable Christian Book Store, the Spence Counseling Center, Catholic Book Store, the Great Oaks Counseling Center, Salem broadcasting. All of these have a Christian mission, values, and message and would be required to hire people whose personal values are in contrast to the message and values that they're trying to promote. My third problem is on the level of the religious exemption for churches. In the case of my church in particular, I have 55 employees, 19 of which are licensed or ordained ministers. In that case, the license and ordained ministers would be exempted from this policy but the others, my Web designer, my facility manager, my receptionist, administrators, etcetera, would not be covered by this and we would be required to hire people who are at odds with our biblical values. My fourth problem that I see is with businesses and workers that are in the marketplace everyday. Currently, people who have stronger sexual ethics who are opposed to homosexuality, people who are prohomosexuality can speak freely about their opinions in the marketplace. If this LB485 passes, then people would not be allowed to truly express their opinions in the marketplace. It would be considered creating a hostile work environment in order to have a strong moral ethic when it comes to your sexual ethics. Under LB485, one set of opinions would be considered to be illegal and that infringes on our freedom of religion and freedom of speech when it comes to the marketplace environment. Because of these four problems, I think LB485 creates more discrimination than it prevents, and I'd encourage you to vote no on this legislation. [LB380 LB485 LB385]

SENATOR ASHFORD: Thank you, Mark. Any questions of Mark? Yes, Senator Chambers. [LB380 LB485 LB385]

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SENATOR CHAMBERS: Suppose you had people working for you, and this is common in churches,... [LB380 LB485 LB385]

MARK ASHTON: Uh-huh. [LB380 LB485 LB385]

SENATOR CHAMBERS: ...who have an attitude very strong and sincerely held against interracial marriage and they express these strong feelings... [LB380 LB485 LB385]

MARK ASHTON: Uh-huh. [LB380 LB485 LB385]

SENATOR CHAMBERS: ...and said: If God would have wanted people of different races to marry He wouldn't have made them different races; I think that black people are mongrels and if a white person marries a black person, he or she is mongrelizing the race. [LB380 LB485 LB385]

MARK ASHTON: Uh-huh. [LB380 LB485 LB385]

SENATOR CHAMBERS: Well, based on freedom of religion and speech, that could not be a basis for firing that person, could it? [LB380 LB485 LB385]

MARK ASHTON: Uh-huh. Yeah, in our case at Christ Community Church, we would be very strongly opposed to that kind of an attitude and we speak out strongly against that discrimination all the time. [LB380 LB485 LB385]

SENATOR CHAMBERS: But you would keep... [LB380 LB485 LB385]

MARK ASHTON: We use our religion in that manner. [LB380 LB485 LB385]

SENATOR CHAMBERS: But you would keep such a person in your employment, correct? [LB380 LB485 LB385]

MARK ASHTON: Probably not. I mean it's very likely if someone is overtly racist, they're out of touch and out of step with the biblical morals that we require of people, and that would probably result, likely result in their firing. [LB380 LB485 LB385]

SENATOR CHAMBERS: But they're just speaking their opinion about interracial marriage, aren't they? [LB380 LB485 LB385]

MARK ASHTON: But they're doing it in contrast to what the Bible teaches. That's the problem. [LB380 LB485 LB385]

SENATOR CHAMBERS: Well, what kind of negative statements against gay people would be allowed by your employees that would not be against your Christian ethics?

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[LB380 LB485 LB385]

MARK ASHTON: Are you saying in the church environment? [LB380 LB485 LB385]

SENATOR CHAMBERS: The environment you were talking about when you said people, if this passed, could not express their true opinions about homosexuality. [LB380 LB485 LB385]

MARK ASHTON: Sure. Well, the way the legislation is written, if somebody says, I believe in traditional marriage or I believe that sex should be between a man and a woman, they could be disciplined, fired, harassed, made to go through sensitivity training because they violated LB485. I think that people should have the freedom to be able to express what their moral perspective is, even in the marketplace environment. [LB380 LB485 LB385]

SENATOR CHAMBERS: Suppose that person, against whom such things were stated, said that it creates a hostile work environment? You wouldn't agree with that because you wouldn't think that gay people have the right to be free of such negative comments. Is that true? [LB380 LB485 LB385]

MARK ASHTON: I think that all people should be free to express themselves in terms of religion and speech. I don't think that anybody should be free from negative comments about them. I receive negative comments about my Christian faith all the time and I would affirm somebody's... [LB380 LB485 LB385]

SENATOR CHAMBERS: But that's not what I'm...that's not what I'm talking about. [LB380 LB485 LB385]

MARK ASHTON: ...I would affirm somebody's right to be able to say those things. [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay. But you'd fire somebody for having strong views against interracial marriage and expressing those views. [LB380 LB485 LB385]

MARK ASHTON: If they weren't able to be corrected, probably. [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay. That's all I have. Thank you. [LB380 LB485 LB385]

MARK ASHTON: Thank you very much. [LB380 LB485 LB385]

SENATOR ASHFORD: Thanks, Mark. [LB380 LB485 LB385]

MARK ASHTON: Thank you. [LB380 LB485 LB385]

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SENATOR ASHFORD: The next...yeah, okay, we'll go over here and over here. [LB380 LB485 LB385]

MARTHA ROSS: Greetings to Chairman Ashford and the committee. And I'm thankful for the opportunity to participate in this constitutional privilege. I'm a Hillary Clinton delegate from 2008, Martha Ross, 32-year AT&T veteran, community and church servant, working with our youth for over 50 years. My political views I tell people, I'm a Christian and I'm an American. I support what is best for our country. I'm here today because of my concerns for the direction in which our country is going. These bills up for vote, I'm an opponent, as they are all synonymous in some form. It represents that our country is on a path to Sodom and Gomorrah. Contrary to Senator Conrad, there's never a time to do wrong. God's creation, His laws, and the constitution should be our marching orders when we have problems in our life. God commands, of course, that we obey God rather than man. We breathe God's blessings. No matter how much Popeye the sailorman's spinach that we consume, God is in control of our lives, of the universe, the asteroids, the meteorites, sinkholes, tornados, floods, quakes. God is in control and we will be held accountable for those things that we support that is abnormal to the normal and to God's plan. God's plan for the home is monogamic in form, 1 Corinthians, 7:2; procreative in design, Genesis 1:29. Happiness of mankind and stability of human society centers around and based upon the home. God created Adam and Eve, not Adam and Steve or Eva and Eve, and His marching orders are to be fruitful and multiply, and that goes for everyone. We have people that are not sure what they want to be, male or female. God decided that. How did each of you get here? Who are your parents, two men or two women? Shall we further disrespect God and change His word from honor thy father and mother to honor thy father and father and honor thy mother and mother? Realizing we need homes for our foster children, but two wrongs do not make a right, who of us would like to be with a family where two men were living together, cohabitating, and not have the mother relationship? In our desperation for our children, we should not hand them over to just anyone. We should have parenting classes. Work as hard as you're working now to put these children in homes that's foreign to the teaching of the scriptures, go through the parenting classes, talk to the children in the homes and set up church relationships where people can be trained and learn how to parent rather than going to the extreme. Let's stay with the old path--God's plan, His creation of male and female. The Bible only speaks of those two. He calls these other unions unnatural affections. People who are dealing with mental disorders, having problems, they shake a fist in God's face and say, God,... [LB380 LB485 LB385]

SENATOR LATHROP: Ma'am. [LB380 LB485 LB385]

MARTHA ROSS: ...my VIN number is wrong; I want to be a male or female. [LB380 LB485 LB385]

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SENATOR LATHROP: Ma'am. [LB380 LB485 LB385]

MARTHA ROSS: I'd like to have a little bit extra as the lady did before. [LB380 LB485 LB385]

SENATOR LATHROP: Your time is up. [LB380 LB485 LB385]

MARTHA ROSS: Let me just finish here. Homosexuality is not synonymous to race. We have no choice in our race or color, but we have a choice in how we choose to live our lives. This is an oxymoron. Our Christian nation, as a country built on God's principles, is being attacked every day. Wake up, America, wake up! We owe allegiance to our Creator. Please do not pass these laws. They're unconstitutional and they're unbiblical. My vote for you, I'm asking you, let's build up America. Let's start cutting the costs in the \$16.5 trillion debt and respect in God rather than trying to change how we was created. [LB380 LB485 LB385]

SENATOR LATHROP: Okay. [LB380 LB485 LB385]

MARTHA ROSS: Don't go the way of Maureen (sic) O'Hair taking prayer out of schools and disrespecting God. Let's stay on the old path. As goes the home and the school, so goes the nation. [LB380 LB485 LB385]

SENATOR CHAMBERS: Excuse me. [LB380 LB485 LB385]

SENATOR LATHROP: Ma'am. [LB380 LB485 LB385]

SENATOR CHAMBERS: Could you respect the rules and the committee? [LB380 LB485 LB385]

MARTHA ROSS: Thank you. [LB380 LB485 LB385]

SENATOR LATHROP: Thank you. [LB380 LB485 LB385]

MARTHA ROSS: I just wanted to finish that. I thank you for listening. Are there any questions because... [LB380 LB485 LB385]

SENATOR CHAMBERS: Then let me ask you a question. You mentioned that the tornados, the sinkholes and so forth are manifestations of God's displeasure? [LB380 LB485 LB385]

MARTHA ROSS: God, if you check the Old Testament, sent many... [LB380 LB485 LB385]

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SENATOR CHAMBERS: No, I meant is that what you said? I don't want to put words in your mouth. [LB380 LB485 LB385]

MARTHA ROSS: Well, of course God is sending...He sends His signals and warnings, and there will be more, the signs of time. [LB380 LB485 LB385]

SENATOR CHAMBERS: And you believe that... [LB380 LB485 LB385]

MARTHA ROSS: The weather is controlled and everything is controlled by God. [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay. [LB380 LB485 LB385]

MARTHA ROSS: Man does not have that power. [LB380 LB485 LB385]

SENATOR CHAMBERS: So then when lightning strikes a church or a tornado blows it away, God is showing displeasure with that church would you say? [LB380 LB485 LB385]

MARTHA ROSS: We don't know the mind of God, Senator. You know, God works in mysterious ways. [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay, that...you answered. Thank you. Thank you. [LB380 LB485 LB385]

MARTHA ROSS: Yeah, we don't know what the total mind of God, but we know from the scripture that God has destroyed,... [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay, Well, you... [LB380 LB485 LB385]

MARTHA ROSS: ...as He did with the days...in the days of Noah. [LB380 LB485 LB385]

SENATOR CHAMBERS: Thank you. Thank you. [LB380 LB485 LB385]

SENATOR LATHROP: Okay, that's it. [LB380 LB485 LB385]

MARTHA ROSS: So He works in mysterious ways. [LB380 LB485 LB385]

SENATOR LATHROP: All right. [LB380 LB485 LB385]

MARTHA ROSS: Thank you very much. [LB380 LB485 LB385]

SENATOR LATHROP: We want to...we want to let other people have a chance to

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speak. [LB380 LB485 LB385]

MARTHA ROSS: Oh, that's great. Thank you. [LB380 LB485 LB385]

SENATOR LATHROP: Come on up. [LB380 LB485 LB385]

KELLIE FIEDOREK: (Exhibit 30) I'm sorry. Members of the committee, my name is Kellie Fiedorek, that's Kellie with an i-e, F-i-e-d-o-r-e-k, and I'm an attorney with the Alliance Defending Freedom where I hold the title of litigation counsel. Alliance Defending Freedom is a national legal alliance. We litigate cases around the country and internationally on the issues of sanctity of life, marriage and family, and religious freedom. Today I'm pleased to be before this committee to speak on the legal impact that this bill, LB485, will have on Nebraska citizens' First Amendment rights if it is enacted. Our country has a longstanding tradition of respect and tolerance for the viewpoints of all Americans, yet this bill fails to protect the First Amendment freedoms. Instead, it seeks to confine religious freedom, in particular, to the four walls of a church or a place of worship. But the constitution of both the U.S. and Nebraska apply to everyone at all times. It protects the free exercise of religion, which means you don't leave your conscience and your faith at home when you go out to work. Indeed, Supreme Court...the United States Supreme Court, and other federal courts have held multiple times that businesses have the same First Amendment rights as individuals. But this bill, as enacted, would give many of your constituents a choice no one should ever have to face: Either violate your conscience or face legal action, fines, even jail time. Let me give just a couple examples of the legal impact this bill would have. This bill exposes businesses to liability for making decisions based on something as simple as spousal benefits. LB485 could force individuals or organizations, in violation of their sincerely held religious beliefs, to extend the same employment benefits to their employees' same-sex partners that they give to married spouses of the opposite sex. LB485 fails to extend constitutionally required protections to Nebraska citizens to be able to communicate and to promote one's business in accordance with one's beliefs. For example, a family-owned religious book store that advertises its employment opportunities to those living a lifestyle consistent with their beliefs would face substantial penalties. The same would be true of a religious photographer or a Jewish counselor who advertises for similar purposes. LB485 would also penalize employers who seek to hire employees who share their vision or mission. But as I'm sure many of you know, for any organization to be successful in its purpose and its mission, it must be allowed to employ individuals committed to its purpose, employees that possess the skills, attributes, etcetera, which further the mission of that employer or the business. This coercion that would happen by LB485 would be grossly disruptive and destabilizing to these organizations. And...right, yes. So in conclusion, passage of this bill would affirm discrimination against Nebraska businesses and individuals who hold sincere religious beliefs about marriage, about sexuality. Most troublesome of all, by enacting the proposed law, the government would be complicit in and, indeed, a direct cause of the

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opposite of religious freedom, which is religious coercion. Respect and toleration of all viewpoints drove the foundations of this country and we should not, with all due respect, go forward with any legislation that fails to protect the First Amendment rights of every Nebraska citizen. [LB380 LB485 LB385]

SENATOR LATHROP: Thank you. [LB380 LB485 LB385]

KELLIE FIEDOREK: Thank you. [LB380 LB485 LB385]

SENATOR LATHROP: Senator Christensen has a question for you. [LB380 LB485 LB385]

SENATOR CHRISTENSEN: Would you describe some of the additional unintended consequences or additional burdens that you see on business owners and employees? You mentioned on the religious side. Is there others that you would have to share or...? [LB380 LB485 LB385]

KELLIE FIEDOREK: Well, we've seen across the country where bills, such as the one that's before us today, have had a negative impact on people of faith and have prevented people of that faith from living their lives and living and running their businesses according to the dictates of their conscience. We're litigating several cases right now. There's a case in New Mexico where there's a young Christian photographer who photographs and she's willing to photograph gays and lesbians. It's not an issue so much where it comes to, in that particular case, their particular sexual orientation, but she doesn't want to affirm a message and photograph their commitment ceremony. But she's being sued under New Mexico's nondiscrimination law and she was actually...she's already been fined \$6,600 by the New Mexico Human Rights Commission and penalized for doing something...nothing more than what the constitution protects, which is to live your lives and run your business according to the dictates of your conscience. So this is just one of many, many examples. [LB380 LB485 LB385]

SENATOR CHRISTENSEN: Isn't there another example of a baker that's been in the news that got...is being sued? [LB380 LB485 LB385]

KELLIE FIEDOREK: That's right. That's right. [LB380 LB485 LB385]

SENATOR CHRISTENSEN: Fined \$50,000-plus just because they didn't want to make a cake, so now we are forcing people to perform for people they don't want? [LB380 LB485 LB385]

KELLIE FIEDOREK: That's right. It's taking place in Colorado. And you know, there was a counselor in Georgia and she didn't want to counsel a same-sex couple, and she

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referred this couple. They received attention in ten minutes. So clearly, their needs were being met. In fact, they later gave that counselor an exemplary recommendation. But they later came back and sued this counselor because of her religious beliefs on marriage. They sued her for discrimination and she was terminated from her employment for, again, doing nothing more than following what her religion told her, following her conscience, which is a constitutionally protected right and something the Supreme Court has upheld as something that needs to be protected. And another area we're seeing this is in adoption. In child and in faith-based adoption agencies has been another difficult problem where these faith-based organizations only want to see their children placed with both a mom and a dad. They see that as in the best interests of their child and they are being persecuted, even forced out of the marketplace. That's happened in Massachusetts, in Illinois and in Washington, D.C., as well. [LB380 LB485 LB385]

SENATOR CHRISTENSEN: Thank you. [LB380 LB485 LB385]

KELLIE FIEDOREK: Thank you, Senator. [LB380 LB485 LB385]

SENATOR ASHFORD: Thank you. Thanks a lot. [LB380 LB485 LB385]

KELLIE FIEDOREK: Thank you. [LB380 LB485 LB385]

RALPH BODIE: Ralph Bodie, R-a-l-p-h B-o-d-i-e, from Liberty, Nebraska. On LB380, our nation was founded as a Judeo-Christian nation. Our people embraced the very Bible that we believe in to afford us responsibility to our moral lives. Our founders believed that without a moral and virtuous nation we couldn't exist as a republic. Why would immorality in acceptance of anything but one man and one woman represent Christian marriage? That is the definition. It's up to us as a body in Nebraska, of you Senators and us as citizens, to uphold the values of our nation. And furthermore, as LB385 initiates, foster parents also have the same responsibility to be a man and a woman in marriage, to adopt foster children who already have suffered from potentially birth on by not having the love and care of parents as in a man or a woman and possibly haven't had any parents. So why would we further punish them by having a compassless life until they're adults at age 20 or 18, as we indicate? And what kind of citizens would we be rearing if we allowed this to happen? I ask you to consider these very facts, as well as in LB485 where we expect employers to hire people they do not wish to hire. As employers, you have a responsibility to those people who work for you. But we also have the responsibility as employers to consider all the effects that might occur because of who we've hired. Thank you. [LB380 LB485 LB385]

SENATOR ASHFORD: Thank you, sir. Any questions? I don't see any. Thank you very much. [LB380 LB485 LB385]

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RALPH BODIE: You're welcome. [LB380 LB485 LB385]

SENATOR ASHFORD: Next opponent to these bills. [LB380 LB485 LB385]

GORDON OPP: (Exhibit 31) Good afternoon. My name is Gordon Opp, G-o-r-d-o-n, last name is O-p-p, and I'm just a citizen here. I'm a lifelong resident of Lincoln. I'm a real estate professional, associated with a local brokerage firm. I've been married for almost 35 years. I have three grown children and five grandchildren. Nevertheless, I grew up homosexual and lived as a homosexual for about four years as a young adult. My same-sex attractions, however, were in conflict with my values and goals. I soon realized that homosexuality was more destructive to me than denying myself sexual gratification. My journey took me to southern California, where I found my path to heterosexual life, which I have enjoyed now for all these years. Although my life has been anything but perfect or trouble-free, I have no regrets for the choice that I made. I love my wife and my children and their spouses, and my grandchildren are absolutely awesome. I'm getting out of here tonight and taking my four grandsons to the circus in a few hours. When I was young, I was free to make my decisions to leave homosexuality. The government was not telling me my values were wrong. My public school teachers taught me that tolerance means to recognize and be respectful toward those who believe and act contrary to my values. Today tolerance is being defined by our government as approval of values that go contrary to all that is true about me. As you well know, when laws are passed to protect one group, they often violate freedoms of another group. I'm concerned that LB485 will violate my freedom to hold the belief that homosexuality is not equal to heterosexuality. Even though I have treated homosexuals with respect and I've sold homes to them without issue, nevertheless laws like this could force my broker to disassociate with me because of what I believe, even though I don't discriminate as I do my job. A good number of gay men have come to me over the years for encouragement to pursue a heterosexual life, as I have. I'm also concerned that LB485 may punish me for attempting to help men like these to pursue their personal values. Earlier I said that I grew up as a homosexual. One thing that you guys, men and women, really need to understand is if you start with the wrong premise, you're going to end with the wrong solution. And homosexuality is simply not genetic. If it were, in the case of identical twins, every time when one was homosexual the other one would be. Homosexuality is a complicated issue and we can't answer it by simple sound bites. Even progay activists know that homosexuality is not simply genetic, yet they try to tell people like you that it is in order to get laws passed that they want. Homosexuality is a complex issue and it can't be addressed without really thoughtfully thinking through the process and seeing where it comes from and how it affects people. And it's not just an issue; it's people; it's people's lives. I remember when my life was... [LB380 LB485 LB385]

SENATOR ASHFORD: Mr. Opp, I'm going to have to ask you to stop because we've come up to the three minutes. [LB380 LB485 LB385]

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GORDON OPP: Oh, I'm sorry. [LB380 LB485 LB385]

SENATOR ASHFORD: Okay. [LB380 LB485 LB385]

SENATOR CHAMBERS: I'll ask him a question or two. [LB380 LB485 LB385]

SENATOR ASHFORD: Yes, Senator Chambers. [LB380 LB485 LB385]

SENATOR CHAMBERS: Are you a geneticist? [LB380 LB485 LB385]

GORDON OPP: No, I'm not. [LB380 LB485 LB385]

SENATOR CHAMBERS: You said if there are identical twins, if one were homosexual the other would be also if it were a genetic trait. Is that what you said? [LB380 LB485 LB385]

GORDON OPP: Do you think... [LB380 LB485 LB385]

SENATOR CHAMBERS: No, no. We ask the questions. If you don't want to answer, you can just say you'd rather not answer. [LB380 LB485 LB385]

GORDON OPP: Okay. Could you restate your question then? [LB380 LB485 LB385]

SENATOR CHAMBERS: Did you say that if there are identical twins and one is homosexual, the other would be homosexual also if the trait were genetic? Did you say that? [LB380 LB485 LB385]

GORDON OPP: If the trait...yes, if the trait were simply genetic. [LB380 LB485 LB385]

SENATOR CHAMBERS: Now I'm asking are you aware of this next thing. Are you aware of the fact that there have been identical twins and they had different color hair? Are you aware of that ever having happened? [LB380 LB485 LB385]

GORDON OPP: No, I'm not aware of that, but I'm also not aware of any identical twins where... [LB380 LB485 LB385]

SENATOR CHAMBERS: Oh, that's...you don't have to argue because I'm not trying to make you say what you might think I'm trying to get you to say. [LB380 LB485 LB385]

GORDON OPP: Okay. [LB380 LB485 LB385]

SENATOR CHAMBERS: I'm just asking you questions. When you answer, that's all I

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ask. Now when you were homosexual in your orientation, were you a practicing homosexual? [LB380 LB485 LB385]

GORDON OPP: For four years, yes. [LB380 LB485 LB385]

SENATOR CHAMBERS: Did you enjoy the sex that you had? (Audience outburst) [LB380 LB485 LB385]

GORDON OPP: That's an honest question. I'll... [LB380 LB485 LB385]

SENATOR MCGILL: There are no public outbursts during these hearings, please. [LB380 LB485 LB385]

SENATOR CHAMBERS: That's all right. We have a lot of Christians in this room and they do not respect the rules as they should, and I'm accustomed to that. Now you brought up the fact that you practiced homosexuality. [LB380 LB485 LB385]

GORDON OPP: Yes. [LB380 LB485 LB385]

SENATOR CHAMBERS: Did you enjoy the sex that you had when you were having it? [LB380 LB485 LB385]

GORDON OPP: I'll be glad to answer that, but can I also give a little explanation? That's not just a yes or no answer. [LB380 LB485 LB385]

SENATOR CHAMBERS: Then did you say that you enjoy the heterosexual experiences you're having now? Did you say that yourself? [LB380 LB485 LB385]

GORDON OPP: Of course I enjoy the heterosexual... [LB380 LB485 LB385]

SENATOR CHAMBERS: And you said it yourself, didn't you? [LB380 LB485 LB385]

GORDON OPP: Said what? [LB380 LB485 LB385]

SENATOR CHAMBERS: That you enjoy the heterosexual experiences you're having. [LB380 LB485 LB385]

GORDON OPP: Yes. [LB380 LB485 LB385]

SENATOR CHAMBERS: So might it be that you were neither homosexual or heterosexual but bisexual? [LB380 LB485 LB385]

GORDON OPP: Could I please answer the question? [LB380 LB485 LB385]

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SENATOR CHAMBERS: Sure. [LB380 LB485 LB385]

GORDON OPP: Okay. I did enjoy the homosexual sex but for the wrong reasons. I learned the lie that it was, that it was trying to meet needs that I shouldn't get met in a sexual way, and that's true for a lot of different people that have different types of sexual issues. [LB380 LB485 LB385]

SENATOR CHAMBERS: I'm not even questioning your motivation for why you did either what you did while a practicing homosexual or why you do what you do as a heterosexual. I'm just indicating that when a person enjoys sex with both genders, the person is bisexual. [LB380 LB485 LB385]

GORDON OPP: I'm not bisexual. [LB380 LB485 LB385]

SENATOR CHAMBERS: That's all that I have to ask you. Thank you. [LB380 LB485 LB385]

SENATOR ASHFORD: Thank you. Thanks, Mr. Opp. Next opponent. [LB380 LB485 LB385]

RICHARD CLEMENTS: (Exhibit 32) My name is Richard Clements, R-i-c-h-a-r-d, last name is C-l-e-m-e-n-t-s, and I'm from Elmwood, Nebraska. Senator Ashford, members of the Judiciary Committee, I thank you for the opportunity to speak. I'm an attorney and president of a bank in Elmwood, Nebraska, and potentially an employer who would be subject to the provisions of LB485. And I wanted to begin by commenting that I want to state that I seek to preserve the worth and dignity of everyone's...every one of God's creatures and I encourage others to show courtesy and respect to all people. I'm respectfully asking the committee to vote against the advancement of LB485 for the following reasons. The first, I think it's a truth issue. This bill is an attempt to promote a world view that believes truth should be defined by each individual. My world view is one that believes that we have been endowed by our Creator with absolute truths which are defined outside of myself. Those standards of behavior exist to govern society in a way that promotes the best interests of those within it and are standards to which we should conform for our benefit. Pilate's famous question, what is truth, was a response to Jesus' claim that he came from heaven to testify to the truth. Our debate today is whether or not his absolute truth claims are worth following or abandoning in favor of unlimited personal preferences. My first point would be to refer to you the Nebraska Constitution and the Preamble of that document. The Constitution of the State of Nebraska acknowledges the source of truth in its...in stating the following, "We, the people, grateful to Almighty God for our freedom, do ordain and establish the following declaration of rights and frame of government, as the Constitution of the State of Nebraska." Section 4 of the constitution declares, "All persons have a natural and

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indefeasible right to worship Almighty God according to the dictates of their own conscience." No person shall be compelled to support any place of worship, nor shall any interference with the rights of conscience be permitted. When the Nebraska Constitution states that morality is essential to good government, is referring to moral absolutes and boundaries that do not change over time, this behavior, the behavior this bill seeks to protect, falls outside those boundaries of morality and would directly interfere with the rights of conscience of myself as an employer. The religious exception in the Nebraska Fair Employment Practice Act was adopted in order to recognize the limitations of state government with these constitutional provisions. Also, the act does have a definitional contradiction. In Section 48-1102 the disability is...it says: Disability shall not include homosexuality, bisexuality, or gender-identity disorders and... [LB380 LB485 LB385]

SENATOR ASHFORD: Okay, I'm going to...I really think we're just going to keep moving on the three minutes... [LB380 LB485 LB385]

RICHARD CLEMENTS: Okay. Thank you. [LB380 LB485 LB385]

SENATOR ASHFORD: ...so everybody gets a chance to talk. So thank you. [LB380 LB485 LB385]

RICHARD CLEMENTS: Thank you. [LB380 LB485 LB385]

SENATOR ASHFORD: Yes, Senator Chambers, do you want to ask him to continue his thoughts? (Laugh) [LB380 LB485 LB385]

SENATOR CHAMBERS: Yes. Yes, if I may. Did you say you're an attorney? [LB380 LB485 LB385]

RICHARD CLEMENTS: Yes, sir. [LB380 LB485 LB385]

SENATOR CHAMBERS: And you're also president of a bank? [LB380 LB485 LB385]

RICHARD CLEMENTS: Correct. [LB380 LB485 LB385]

SENATOR CHAMBERS: Have you ever had a gay or lesbian person work for you at your bank? [LB380 LB485 LB385]

RICHARD CLEMENTS: I guess I don't know. [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay. If you found out that an employee, who up to this point has been satisfactory or that employee would not continue to be working for you, if you discovered that person were gay, if a man, or lesbian, if a woman, would you fire that

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employee? [LB380 LB485 LB385]

RICHARD CLEMENTS: Not necessarily, sir. I really do...would want to respect... [LB380 LB485 LB385]

SENATOR CHAMBERS: It's not an easy question. [LB380 LB485 LB385]

RICHARD CLEMENTS: ...all aspects of their ability to work, but... [LB380 LB485 LB385]

SENATOR CHAMBERS: It's not an easy question for you... [LB380 LB485 LB385]

RICHARD CLEMENTS: No. [LB380 LB485 LB385]

SENATOR CHAMBERS: ...to answer yes or no, though, is it? [LB380 LB485 LB385]

RICHARD CLEMENTS: No. [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay. And why is it difficult to answer yes or no if this employee had been satisfactory in all that he or she had been doing? Why would it be difficult to say, no, I would not fire the person? Would it be because of your attitude or because of what you perceive the attitude of other people who patronize your bank might be if they made that discovery? [LB380 LB485 LB385]

RICHARD CLEMENTS: The issue is what is best for that person and... [LB380 LB485 LB385]

SENATOR CHAMBERS: And you think it might be best for the person? Is that what you said? Okay, so what do you think would be best for that person? [LB380 LB485 LB385]

RICHARD CLEMENTS: I think the best interests of myself and all individuals is to comply with a moral absolute that is beyond themselves. [LB380 LB485 LB385]

SENATOR CHAMBERS: But I'm not asking...you said what should be done should be best for that person, the employee. What do you think would be best for that person, based on your having said that's what the decision should be based on? What do you think would be best for that person? Would it be best for that person to retain employment, as it would be for anybody? [LB380 LB485 LB385]

RICHARD CLEMENTS: If the word "best" is an economic question...is an economic issue, then... [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay. I won't pursue you on it because you made it clear that it's difficult to answer and I don't want to badger you. [LB380 LB485 LB385]

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RICHARD CLEMENTS: Okay. Thank you. [LB380 LB485 LB385]

SENATOR CHAMBERS: Let me ask you this question. Do you have other people working in your law firm or do you work for a law firm yourself? [LB380 LB485 LB385]

RICHARD CLEMENTS: I have. I have a partner so we have a two-person law firm and one employee. [LB380 LB485 LB385]

SENATOR CHAMBERS: And one employee? [LB380 LB485 LB385]

RICHARD CLEMENTS: Yes. [LB380 LB485 LB385]

SENATOR CHAMBERS: If that person were found to be gay or lesbian, and you would think that that person should no longer work there, I gather from your...the way you had difficulty answering the other question about your bank, or since it's a law firm would you want that person to continue working for the law firm? [LB380 LB485 LB385]

RICHARD CLEMENTS: I would want the state not to intervene in my decision. [LB380 LB485 LB385]

SENATOR CHAMBERS: That's why I'm asking what your decision would be, because the state wouldn't intervene now. [LB380 LB485 LB385]

RICHARD CLEMENTS: If this bill is passed, the state would definitely intervene. [LB380 LB485 LB385]

SENATOR CHAMBERS: No, no. I'm talking about now... [LB380 LB485 LB385]

RICHARD CLEMENTS: Oh, now. [LB380 LB485 LB385]

SENATOR CHAMBERS: ...when you could, at this point, without this law, fire that person because he or she is homosexual and the law would not do anything to you for that. Isn't that true? [LB380 LB485 LB385]

RICHARD CLEMENTS: I think so, yes. [LB380 LB485 LB385]

SENATOR CHAMBERS: Now having that situation in existence now, and you discover that that lone employee that you and your partner hired is gay or lesbian, your choice would be to no longer keep that person working for the firm, I presume from your answer or nonanswer relative to the questions about the bank employee. [LB380 LB485 LB385]

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RICHARD CLEMENTS: I don't think that would be my choice at all. I think I would recognize their contribution to our firm and I don't think the sexual orientation issue would be the predominant factor. [LB380 LB485 LB385]

SENATOR CHAMBERS: So then that person would retain his or her employment with the firm. [LB380 LB485 LB385]

RICHARD CLEMENTS: It would be under... [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay, I'll let you... [LB380 LB485 LB385]

RICHARD CLEMENTS: ...under a number...a number of factors that would be in... [LB380 LB485 LB385]

SENATOR CHAMBERS: I don't want to make you that uncomfortable. [LB380 LB485 LB385]

RICHARD CLEMENTS: Sure. [LB380 LB485 LB385]

SENATOR CHAMBERS: That's all that I have to ask. Thank you very much. [LB380 LB485 LB385]

RICHARD CLEMENTS: Thank you, sir. [LB380 LB485 LB385]

SENATOR ASHFORD: Okay. Thanks. [LB380 LB485 LB385]

EDWARD STRINGHAM: (Exhibits 33 and 34) My name is Edward Stringham, it's E-d-w-a-r-d S-t-r-i-n-g-h-a-m. I've been a Lincoln psychologist for 22 years. I'm going to focus on a critique of the survey cited by some of the witnesses earlier. I speak in opposition to all three pieces of legislation. The study survey concerned a convenient sample. Subjects were selected by their availability. Participants were recruited through local gay organizations, such as Omaha Pride, Queer Student Alliance, and the River City Gender Alliance. As the report says, because of the nature of the sample, quote, generalizations must be made with caution. Indeed, in psychology convenience samples are not typically generalizable. These participants were, according to the survey, quote, moderately involved with the LGBT community. These organizations are centers of social and political advocacy and do not represent a general sample; neither would, say, participants drawn from one of our political parties, labor unions, or right-to-life organizations. Those don't constitute a general sample either. In addition, 57 percent of the subjects had bachelor's degrees, double the state average. Over 50 percent had engaged in binge drinking at least once during the previous 30 days; over 25 percent had used illegal drugs in the previous 90 days, and nearly 50 percent scored as being depressed. Sample bias skews results and a cautious interpretation here

means that skepticism about the study's conclusions is justified. Second is the question of perception. Roughly a third of those who were out to their employers, 132 people, perceived that they had experienced discrimination at least once. Perception is highly subjective and research psychologists have spent decades proving that perceptions vary tremendously from person to person. Furthermore, discrimination is defined nowhere in the survey. Did discrimination always involve being denied a job, a promotion, or receiving lower pay? Is it possible some of those 132 people may have perceived discrimination as being disliked, unfairly criticized, or excluded from a social event? That's an open question. Third, the survey includes no recency criterion. It only questioned whether participants had ever experienced job discrimination. The average participant was 36 years old and the oldest was 70. The 36-year-old respondent who had experienced discrimination one time ten years ago would have answered yes. The answers of these 132 people tell us nothing about whether discrimination is current. Lastly, over two-thirds of the respondents never perceived that they experienced discrimination, not even once during their working lives. This suggests to me that Nebraska employers are typically not practicing discrimination. Therefore, the overwhelming majority of respondents--college-educated, moderately active in social, political gay advocacy groups, engaged in binge drinking, depressed, and some also using illegal drugs--did not even perceive by vague criteria that they had experienced job discrimination at any time in any job with any employer. Perhaps LB485 is a bill in search of a problem. Should 132 yes responses to a vaguely worded discrimination question from a nonrepresentative sample lead our Legislature to alter the law? I certainly hope not. [LB380 LB485 LB385]

SENATOR ASHFORD: Let me just ask you, as an expert,... [LB380 LB485 LB385]

EDWARD STRINGHAM: Sir. [LB380 LB485 LB385]

SENATOR ASHFORD: ...what is, in your view, what is the negative impact on...or is there a negative impact on society in recognizing sexual orientation as a...or first of all, may I ask you is there a negative social impact of having legal recognition of sexual orientation as a legally protected condition or circumstance? Do you... [LB380 LB485 LB385]

EDWARD STRINGHAM: Well, that's... [LB380 LB485 LB385]

SENATOR ASHFORD: Or do you think that there's a negative social impact or...? [LB380 LB485 LB385]

EDWARD STRINGHAM: I do, sir. It's a very subjective... [LB380 LB485 LB385]

SENATOR ASHFORD: And what would that be? I mean in your professional opinion, what is the negative social...? [LB380 LB485 LB385]

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EDWARD STRINGHAM: Well, I just have to...it's a subjective question that I will respond to as best I can but... [LB380 LB485 LB385]

SENATOR ASHFORD: Oh, I'm asking for your opinion because you're an expert and I'm just trying to...I'm trying to understand what the negative social impact is. [LB380 LB485 LB385]

EDWARD STRINGHAM: Well, the best I guess I could say, Senator, is that what we're seeing is the Centers of Disease Control have pointed out is we're seeing an escalation in the sexual experimentation of teenagers, especially females. As recently as approximately 10-12 years ago, we had a very small percentage, fewer than 7 percent of females, adolescents, engaging, experimenting with same-sex behavior. Now it's about double that in just a short period of time. [LB380 LB485 LB385]

SENATOR ASHFORD: And is that a negative thing? [LB380 LB485 LB385]

EDWARD STRINGHAM: Experimentation? I think the Centers of Disease Control defines it as a negative thing. [LB380 LB485 LB385]

SENATOR ASHFORD: So let me ask this. I mean we, in this committee, we deal with the negative impacts of so many actions that occur in today's society, and one... [LB380 LB485 LB385]

EDWARD STRINGHAM: Sure. [LB380 LB485 LB385]

SENATOR ASHFORD: ...of those is human trafficking. [LB380 LB485 LB385]

EDWARD STRINGHAM: Yes. [LB380 LB485 LB385]

SENATOR ASHFORD: ...and where the average age of young girls that are victims of human trafficking is 14 years old. [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR ASHFORD: I mean to me that, on its face, is a negative thing. [LB380 LB485 LB385]

EDWARD STRINGHAM: Yes. [LB380 LB485 LB385]

SENATOR ASHFORD: If two females are in a loving relationship, that...I'm trying to understand the negative impact of that. I... [LB380 LB485 LB385]

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EDWARD STRINGHAM: Well, we're talking about 12-year-olds. [LB380 LB485 LB385]

SENATOR ASHFORD: Or 14-year-olds or... [LB380 LB485 LB385]

EDWARD STRINGHAM: Or 14-year-olds... [LB380 LB485 LB385]

SENATOR ASHFORD: Or teenagers. [LB380 LB485 LB385]

EDWARD STRINGHAM: And I think that, as the Centers of Disease Control would point out, the assumption that sexual experimentation involves a, quote, loving relationship is... [LB380 LB485 LB385]

SENATOR ASHFORD: Well, I was talking more in a general sense, but you're talking about 12-year-olds, so go ahead, I interrupted you. Go ahead and... [LB380 LB485 LB385]

EDWARD STRINGHAM: Yeah, so, well, I'm not going to say that a piece of legislation such as what is propose here in and of themselves are responsible totally for the increase in sexual experimentation, particularly same-sex sexual experimentation among adolescents, but I would suggest that this kind of focus and this kind of publicity, this kind of recognition by a state body is a contributing factor. [LB380 LB485 LB385]

SENATOR ASHFORD: The...you know, the same...well, one of the negative, when we're arguing or thinking about in 1912, women's right to vote, the argument was that if we give women the right to vote it's going to be disruptive to the moral fabric of society because it's going to disrupt the normal home environment and it will lead to women actually working. [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR ASHFORD: And there was...I mean it was a massive political question. [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. Uh-huh. [LB380 LB485 LB385]

SENATOR ASHFORD: And there were arguments given that it's going to tear down the moral fabric of our society if women were given that sort of right... [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR ASHFORD: ...or that sort of...so I'm not suggesting you believe that but... [LB380 LB485 LB385]

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EDWARD STRINGHAM: Right. [LB380 LB485 LB385]

SENATOR ASHFORD: ...and I'm not...but I'm trying to see the difference,... [LB380 LB485 LB385]

EDWARD STRINGHAM: Sure. [LB380 LB485 LB385]

SENATOR ASHFORD: ...you know, and that's what I struggle with, is you know when we base decisions on basic human functions like working and living in an apartment or things that are necessary to life,... [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR ASHFORD: ...you know, and if people come in to us and say, we can't maintain a stable job environment because we're...because of our sexual orientation,... [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR ASHFORD: ...I guess I'm having a hard time understanding what's negative about someone wanting to get a job who may be gay. [LB380 LB485 LB385]

EDWARD STRINGHAM: Well, I wouldn't say there's anything negative about that. In fact, what I...I would refer to some of the witnesses previously who talked about the fear of being fired. In fact, one of the letters that was written was written from someone who had not been fired but they were afraid of it. [LB380 LB485 LB385]

SENATOR ASHFORD: Well, and I think they are. [LB380 LB485 LB385]

EDWARD STRINGHAM: And I don't deny that. [LB380 LB485 LB385]

SENATOR ASHFORD: Yeah. [LB380 LB485 LB385]

EDWARD STRINGHAM: But the issue is...or the question you face as senators is do you legislate because people are afraid, when our statistics not only in Nebraska but around the country are showing that this is a...that discrimination on the basis of sexual orientation at the workplace is a declining issue? [LB380 LB485 LB385]

SENATOR ASHFORD: Well, it may be a declining issue because there are major corporations who have adopted a more, well, one would say enlightened view and say we're not going to discriminate against somebody because of their sexual orientation. So there may be some change. I guess what I'm trying to say is we deal in this, and I understand your argument and your points,... [LB380 LB485 LB385]

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EDWARD STRINGHAM: Yeah. [LB380 LB485 LB385]

SENATOR ASHFORD: ...and I'm not trying to draw the conclusion that you would be against women with having the right to vote,... [LB380 LB485 LB385]

EDWARD STRINGHAM: I understand that. [LB380 LB485 LB385]

SENATOR ASHFORD: ...but what I am suggesting is that there are so many negative things going on in society today involving young people, girls and boys, and that rip your heart out. [LB380 LB485 LB385]

EDWARD STRINGHAM: Yes. [LB380 LB485 LB385]

SENATOR ASHFORD: I mean we deal with them every day. [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR ASHFORD: And we hear...or I hear from people who are gay and who want to do what I think we want in a society, and that is to have a family and to have a loving relationship and one that's maintained. I mean, heavens, the divorce rate amongst heterosexual couples is through the roof and is one of the major factors that when we think about some of the violence we see in Omaha and there's always the thought given, well, they don't have a good family life and, therefore, there's violence, or that's... [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR ASHFORD: ...we hear about that a lot. Well, it would seem to me that that may be true, that there may not be a stable family life in some of these families and we see the results of that in everyday life. But when we're talking about people who have a certain sexual orientation and simply want to be able to have basic fundamental rights or freedoms, I'm just struggling with what the badness is there. You know, it would seem it me we would want to promote that sort of thing. [LB380 LB485 LB385]

EDWARD STRINGHAM: Well, I appreciate your dilemma and I recognize you, as a senator, you hear several sides of any question and you have to balance those things in decisions that you make. [LB380 LB485 LB385]

SENATOR ASHFORD: But what I'm getting at is are there really...should there be sides here? Because I think what all of us in this room would want to stop is the kind of dysfunction that goes on in families. And whether they're heterosexual or whatever, they'd like to stop the violence, they'd like to stop the poverty. I'm sure everybody, if I

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was to ask this question in this room, who supports poverty, you know,... [LB380 LB485 LB385]

EDWARD STRINGHAM: Right. [LB380 LB485 LB385]

SENATOR ASHFORD: ...I think most everybody would raise their hand and say, not me, I don't support poverty. And one of the ways to address poverty, it seems to me, and this...I've been here 15 years so if this is just old cobweb thinking just tell me, but I've been here for 15 years and I've listened to a lot of good people come up here with a lot of heartfelt views, but I think there's more common ground than what we give ourselves credit for. I don't think there are sides. I think we all have different values. [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR ASHFORD: We all have different values and there are some constant values, but we all kind of have some same ones and that is we want young people to grow up to be healthy and to be educated. And those, it seems to me, should be the things that we should be focused on, not whether or not someone should...you know, whether we should be against or for, you know, against a law that allows someone to work if they have a certain sexual orientation. I'm having a hard time understanding why there's so much gravitas against this. [LB380 LB485 LB385]

EDWARD STRINGHAM: Well, I think some of the other witnesses have begun to answer that question. The attorney who spoke a couple of times before me gave pretty clear examples of what happened in other states when these laws have been passed and how it affects people. [LB380 LB485 LB385]

SENATOR ASHFORD: Well, I... [LB380 LB485 LB385]

EDWARD STRINGHAM: But I guess my point to you was I think that we are changing as a society and... [LB380 LB485 LB385]

SENATOR ASHFORD: We're becoming more accepting, aren't we? [LB380 LB485 LB385]

EDWARD STRINGHAM: We are becoming more accepting of this. [LB380 LB485 LB385]

SENATOR ASHFORD: Then why are we arguing about this? [LB380 LB485 LB385]

EDWARD STRINGHAM: Well, I think the point is, I would say, why make a law about it which is going to create expense, it's going to create... [LB380 LB485 LB385]

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SENATOR ASHFORD: Because to some extent the laws that we make are trying to reflect what is a common sense of fairness in a society. And even though someone may have a different view about homosexuality... [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR ASHFORD: ...and I understand that and I respect that,... [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR ASHFORD: ...but we're trying to establish a standard here so that we can encourage people to live in family units and have a loving family. That's the big one for me. And secondarily, so that they can work and they can provide for their children, even if they're lesbian or gay. [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR ASHFORD: I mean to me those are such incredible, important, positive values that I'm having a hard time understanding why we wouldn't all just say hurrah for that. [LB380 LB485 LB385]

EDWARD STRINGHAM: Are you asking about like the stability of lesbian and gay families? Is that kind of what you're... [LB380 LB485 LB385]

SENATOR ASHFORD: You know, I think...what I'm trying to say is there's more common ground here than what we're exhibiting in saying there are sides. [LB380 LB485 LB385]

EDWARD STRINGHAM: Okay. Okay. [LB380 LB485 LB385]

SENATOR ASHFORD: Because I think we all want these things for our kids and I think the family is the best place to get it going. And if a gay couple wants to be...wants to have a family and have...adopt kids and be able to work and have the freedom to work, I think that's a standard that we ought to put in our law. And it seems to me those are the kinds of acceptances that we need to throw in there. And I fully understand what you're saying. [LB380 LB485 LB385]

SENATOR CHAMBERS: May I ask him a couple of questions, Mr. Chairman? [LB380 LB485 LB385]

SENATOR ASHFORD: Yeah. Yeah, I don't say much today, Senator Chambers. [LB380

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LB485 LB385]

SENATOR CHAMBERS: You don't, right, but once you begin you make up for it. [LB380 LB485 LB385]

SENATOR ASHFORD: Yeah. (Laughter) [LB380 LB485 LB385]

SENATOR CHAMBERS: Which honorific do you go by, Mr. or Dr.? [LB380 LB485 LB385]

EDWARD STRINGHAM: I'm Dr. Stringham, Senator. [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay. And so you have a Ph.D. in psychology. [LB380 LB485 LB385]

EDWARD STRINGHAM: That's correct. [LB380 LB485 LB385]

SENATOR CHAMBERS: Have you ever taught at an institution? [LB380 LB485 LB385]

EDWARD STRINGHAM: Have I ever taught? You mean like... [LB380 LB485 LB385]

SENATOR CHAMBERS: Have you ever been...served as a professor? [LB380 LB485 LB385]

EDWARD STRINGHAM: No, I've not, no, I've never been a professor, no. [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay. [LB380 LB485 LB385]

EDWARD STRINGHAM: I've been a practicing psychologist. [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay. And how long have you been a practicing psychologist? [LB380 LB485 LB385]

EDWARD STRINGHAM: Twenty-two years. [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay. Not as long as I've been a Senator, but at any rate... [LB380 LB485 LB385]

EDWARD STRINGHAM: That's true. (Laughter) That would be a while. [LB380 LB485 LB385]

SENATOR CHAMBERS: ...that's why you don't look as old and weather-beaten as I do.

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[LB380 LB485 LB385]

EDWARD STRINGHAM: Okay. All right. [LB380 LB485 LB385]

SENATOR CHAMBERS: But see if this is a principle or an assertion... [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR CHAMBERS: ...that is recognized in the branch of psychology... [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR CHAMBERS: ...that you practice. [LB380 LB485 LB385]

EDWARD STRINGHAM: Okay. [LB380 LB485 LB385]

SENATOR CHAMBERS: If a person perceives a thing as real,... [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR CHAMBERS: ...it is real to him in its consequences. Is that a valid statement? [LB380 LB485 LB385]

EDWARD STRINGHAM: Let's see. If a person perceives that it's real to them in its consequences... [LB380 LB485 LB385]

SENATOR CHAMBERS: Then it's real to him or her in its consequences. [LB380 LB485 LB385]

EDWARD STRINGHAM: Well, at least internally, yes. [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay. Now that's...I'm not going anywhere very far with that. You were discussing polls and surveys. [LB380 LB485 LB385]

EDWARD STRINGHAM: Yes. [LB380 LB485 LB385]

SENATOR CHAMBERS: Is morality determined based on polls or surveys? [LB380 LB485 LB385]

EDWARD STRINGHAM: Is morality determined by polls or surveys? I'd hope not. [LB380 LB485 LB385]

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SENATOR CHAMBERS: And your practice of psychology, in terms of what you consider valid, is not determined by what might be reflected in a poll or a survey given to laypeople as to what a psychologist ought to be about. [LB380 LB485 LB385]

EDWARD STRINGHAM: That's correct. [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay. Now do you think I, as an elected official, should base my judgments on the outcome of a poll or a survey? [LB380 LB485 LB385]

EDWARD STRINGHAM: I think that should be a factor. I think it would be a factor in terms of what are problems and what are not problems. [LB380 LB485 LB385]

SENATOR CHAMBERS: As an elected official, based on the theory of the government in this country, am I a representative of those who elected me? [LB380 LB485 LB385]

EDWARD STRINGHAM: Well, you don't need to ask me that question. [LB380 LB485 LB385]

SENATOR CHAMBERS: Am I supposed to be a representative of the people who elected me, in your view? Then don't make it me... [LB380 LB485 LB385]

EDWARD STRINGHAM: I think that question is answered in our state constitution. [LB380 LB485 LB385]

SENATOR CHAMBERS: And in a republican form of government,... [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR CHAMBERS: ...it is representative. The people do not directly make decisions, as would be the case in a democracy. [LB380 LB485 LB385]

EDWARD STRINGHAM: That's correct. [LB380 LB485 LB385]

SENATOR CHAMBERS: And representatives are chosen by people who are determined to be qualified voters. [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR CHAMBERS: And when the people vote, they send somebody, to whatever the representative body is, to do a job that they think ought to be done by such a representative. [LB380 LB485 LB385]

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EDWARD STRINGHAM: Okay. [LB380 LB485 LB385]

SENATOR CHAMBERS: Now this is calling for an opinion. [LB380 LB485 LB385]

EDWARD STRINGHAM: Okay. [LB380 LB485 LB385]

SENATOR CHAMBERS: Do you think that when people send a person to represent their interests, they would like that person to have maybe more information than they have on the types of subjects that are to be determined and they gain this information through study, analysis, and the methods employed by people to gain information? Do they want a representative, in your opinion, to do that? [LB380 LB485 LB385]

EDWARD STRINGHAM: I think this hearing is a good example of that kind of information gathering you're speaking about. [LB380 LB485 LB385]

SENATOR CHAMBERS: And do you think that the people who send this representative would expect that person to act on the basis of his or her informed judgment? [LB380 LB485 LB385]

EDWARD STRINGHAM: Well, I think, as I understand the republican form of democracy, there's probably a balance there, Senator. On one hand, what you're saying is true. People do expect the person to act on their informed judgment. But on the other hand, they also want the representative to act in accordance with their values, their beliefs, and their preferences. So I think there's a...and I think we have plenty of examples in our state government and our elected officials that have... [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay. [LB380 LB485 LB385]

EDWARD STRINGHAM: ...demonstrated the difficulty in keeping that balance. [LB380 LB485 LB385]

SENATOR CHAMBERS: Well, now let me bring it to me. [LB380 LB485 LB385]

EDWARD STRINGHAM: Okay. [LB380 LB485 LB385]

SENATOR CHAMBERS: I have said repeatedly that I have not a religious corpuscle in my body and... [LB380 LB485 LB385]

EDWARD STRINGHAM: I don't disbelieve you, Senator. [LB380 LB485 LB385]

SENATOR CHAMBERS: ...I come from a...I come from a district that's predominantly

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black and outsiders say that black people are deeply religious people. Yet here I am acknowledging that I don't have any religious predilections. [LB380 LB485 LB385]

EDWARD STRINGHAM: Okay. [LB380 LB485 LB385]

SENATOR CHAMBERS: They say that black people are very antigay, and yet I have presented many bills to do away with discrimination against gay and lesbian people. And I have not hidden the fact that I believe it's wrong to discriminate against people based on sexual orientation. [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR CHAMBERS: They say that the black community believes in marriage only between a man and a woman. [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR CHAMBERS: Yet before that was accepted in any other state, I offered legislation here to allow people of the same sex to marry. [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR CHAMBERS: And those who organized a campaign to have it put into the Nebraska Constitution that there could be marriage only between a man and a woman, if you read the transcript of hearings that the Secretary of State conducted while that initiative was being considered you will see that the advocates had said, because of how effective he is, Senator Chambers will eventually get a law that approves of gay marriage so we have to amend the constitution. [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR CHAMBERS: And so they amended the constitution. [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR CHAMBERS: I'm saying that to indicate that my views have never been hidden... [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR CHAMBERS: ...from the people who would be asked to vote for me. [LB380 LB485 LB385]

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EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR CHAMBERS: I have stated repeatedly, my job deals with legislation, not salvation. [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR CHAMBERS: Yet, when a Christian person ran against me who was endorsed by the ministers in the community,... [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR CHAMBERS: ...I won by more than 2-to-1 margin. [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR CHAMBERS: So even though it would appear that my views are out of step with those of the views that outsiders say... [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR CHAMBERS: ...are the views of people in my community, they haven't made a very good evaluation or the people in my community are voting against their own best interest when they vote for me. [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR CHAMBERS: Either conclusion could be drawn. [LB380 LB485 LB385]

EDWARD STRINGHAM: Okay. [LB380 LB485 LB385]

SENATOR CHAMBERS: This brings me to the question that I'm going to put to you now. When you are practicing psychology,... [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR CHAMBERS: ...do you have patients or clients who come to you seeking help with psychological problems that they experience? [LB380 LB485 LB385]

EDWARD STRINGHAM: Of course. [LB380 LB485 LB385]

SENATOR CHAMBERS: Now when you are working with a patient, are you giving that person your personal opinions about what their problems are and how they ought to

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solve them? In other words, are the principles of psychology that you consider to be valid in line with every personal opinion you have about the subjects that those principles address? [LB380 LB485 LB385]

EDWARD STRINGHAM: That's a...it's a complex answer. I'll try to answer it briefly. I think there's a...I would say there's an integration of established psychological principles based on research and theory with personal experience, clinical experience with patients, as a clinical psychologist. And there are...so it's a mix of those things. [LB380 LB485 LB385]

SENATOR CHAMBERS: And it's a difficult question perhaps to answer... [LB380 LB485 LB385]

EDWARD STRINGHAM: Yeah. [LB380 LB485 LB385]

SENATOR CHAMBERS: ...the way I phrased it. Let me ask you this. If there were a situation where the accepted principles of psychology dealing with a specific matter... [LB380 LB485 LB385]

EDWARD STRINGHAM: Okay. [LB380 LB485 LB385]

SENATOR CHAMBERS: ...actually conflicted with your personal opinion about the way it ought to be,... [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. Yes. [LB380 LB485 LB385]

SENATOR CHAMBERS: ...would you treat that patient on the basis of these accepted principles of psychology or on the basis of your personal opinion? [LB380 LB485 LB385]

EDWARD STRINGHAM: I've faced that many times in different issues and sometimes it's one and sometimes it's the other. [LB380 LB485 LB385]

SENATOR CHAMBERS: Well, when it's your personal opinion, what leads you to forsake the established principles of psychology to rely on a personal opinion which conflicts with those principles? [LB380 LB485 LB385]

EDWARD STRINGHAM: Sometimes it's a...valuing minority research. In other words, a research, studies, that might be fewer in number but I think are better in quality than the research that's been established by psychology. [LB380 LB485 LB385]

SENATOR CHAMBERS: So then it's not strictly your personal opinion. You just say there... [LB380 LB485 LB385]

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EDWARD STRINGHAM: It's not strictly my personal opinion. [LB380 LB485 LB385]

SENATOR CHAMBERS: ...there can be two valid approaches here, and you chose one rather than the other. [LB380 LB485 LB385]

EDWARD STRINGHAM: That's correct. [LB380 LB485 LB385]

SENATOR CHAMBERS: Well, I'm talking about an opinion that you have which is clearly an opinion... [LB380 LB485 LB385]

EDWARD STRINGHAM: That's... [LB380 LB485 LB385]

SENATOR CHAMBERS: ...that conflicts. Or do you have no opinions that conflict with established principles of psychology? [LB380 LB485 LB385]

EDWARD STRINGHAM: I probably would say I don't have any opinions that would conflict with at least some school within psychology. Psychology is a very, how would I say, it's an amalgam of many different kinds of theories and opinions... [LB380 LB485 LB385]

SENATOR CHAMBERS: Let me ask the question a different way. [LB380 LB485 LB385]

EDWARD STRINGHAM: ...and that there aren't too many things that somebody doesn't agree with. [LB380 LB485 LB385]

SENATOR CHAMBERS: Has there been ever a situation where an established principle of psychology overrode a personal opinion of yours and you relied on this principle of psychology rather than your personal opinion? [LB380 LB485 LB385]

EDWARD STRINGHAM: I think that... [LB380 LB485 LB385]

MAN FROM AUDIENCE: Am I wrong or does this seem a filibuster? (Audience outburst) [LB380 LB485 LB385]

SENATOR MCGILL: Quiet! [LB380 LB485 LB385]

SENATOR CHAMBERS: Then I think whoever does that, has an outburst, Mr. Chairman, you ought to have them removed from the room. [LB380 LB485 LB385]

SENATOR ASHFORD: Right. Let me...let me respond to that. We're going to... [LB380 LB485 LB385]

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SENATOR CHAMBERS: These are Christians, so... [LB380 LB485 LB385]

SENATOR ASHFORD: We're going to have the conversation and that's what we're going to do, so... [LB380 LB485 LB385]

EDWARD STRINGHAM: Okay. [LB380 LB485 LB385]

SENATOR ASHFORD: And the next...and this is the second time now. The next time we have one, we're going to have to clear the room. I'm sorry. So go ahead, Senator Chambers. [LB380 LB485 LB385]

EDWARD STRINGHAM: I guess in answer to your question, yeah, I can think of at least a limited number of times when I have leaned entirely, predominantly on a principle of psychology even though it maybe intuitively to me didn't seem right, but I knew it was the right thing to do. [LB380 LB485 LB385]

SENATOR CHAMBERS: Now when we come to the issue of homosexuality,... [LB380 LB485 LB385]

EDWARD STRINGHAM: Yes. [LB380 LB485 LB385]

SENATOR CHAMBERS: ...is it your view, either as a psychologist or personally,... [LB380 LB485 LB385]

EDWARD STRINGHAM: Uh-huh. [LB380 LB485 LB385]

SENATOR CHAMBERS: ...that homosexuality is an acquired or voluntary orientation? [LB380 LB485 LB385]

EDWARD STRINGHAM: That, I'm sorry, I have to give a little bit more complex answer. I think it's...the research has shown clearly at this point it's not genetic, not genetically based. The Human Genome Project showed that. So I suppose you could say, if it's not genetic, some might say it's acquired. But the research is much more complex than that because there...and it's not unequivocally clear from our research exactly what causes it. The only, only honest answer is we don't really know. [LB380 LB485 LB385]

SENATOR CHAMBERS: So there is research that indicates it may be genetic. [LB380 LB485 LB385]

EDWARD STRINGHAM: Well, the human genome...I'll tell you the short answer to that. The Human Genome Project completed in 2001 has the complete genetic map, and the Human Genome Project concluded that there was no gene for homosexuality, period.

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[LB380 LB485 LB385]

SENATOR CHAMBERS: And who conducted that particular work? [LB380 LB485 LB385]

EDWARD STRINGHAM: That was Dr. Francis Collins and...was the leader of it and I think he's from Harvard, and a group of other scientists. It's a widely known, revered, scientific study that actually created the map of the human genome.

SENATOR CHAMBERS: Does mainstream psychology view homosexuality as a sickness or an aberration? [LB380 LB485 LB385]

EDWARD STRINGHAM: Mainstream psychology does not view homosexuality as a sickness or aberration. [LB380 LB485 LB385]

SENATOR CHAMBERS: Do you? [LB380 LB485 LB385]

EDWARD STRINGHAM: I don't want...I would not say a sickness, maybe an aberration would probably be close to being fair. [LB380 LB485 LB385]

SENATOR CHAMBERS: So if somebody who was a homosexual came to you, would you try to treat that as you would other psychological aberrations and remove from that person this aberration? [LB380 LB485 LB385]

EDWARD STRINGHAM: Not necessarily, because my overarching belief, Senator, is that...is in the ethical principle of self-determination, and I believe that, as this is a mainstream psychological position, is that people have the right to choose certain aspects of their lives and... [LB380 LB485 LB385]

SENATOR CHAMBERS: And if somebody is happy doing what they're doing and they're not violating the law to do it, then you think they should be allowed to be left alone and be happy? [LB380 LB485 LB385]

EDWARD STRINGHAM: Well, in answer...going back to your question, as a patient in psychology, I make no efforts to attempt to persuade or change somebody's sexual orientation if that's...if there's no interest in that on their part. [LB380 LB485 LB385]

SENATOR CHAMBERS: Thank you. You've been very helpful... [LB380 LB485 LB385]

EDWARD STRINGHAM: Well,... [LB380 LB485 LB385]

SENATOR CHAMBERS: ...and very cooperative and I appreciate it. [LB380 LB485 LB385]

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EDWARD STRINGHAM: Well, thank you, Senator Chambers. [LB380 LB485 LB385]

SENATOR CHAMBERS: One other thing: Do you feel that the questioning that I was presenting to you was disrespectful towards you? [LB380 LB485 LB385]

EDWARD STRINGHAM: No, I don't. [LB380 LB485 LB385]

SENATOR CHAMBERS: And did you have or feel any compulsion from me to answer a certain way? [LB380 LB485 LB385]

EDWARD STRINGHAM: No, I don't think I did. [LB380 LB485 LB385]

SENATOR CHAMBERS: Do you feel that your time was wasted by engaging in this discussion? [LB380 LB485 LB385]

EDWARD STRINGHAM: No, Senator, I don't. [LB380 LB485 LB385]

SENATOR CHAMBERS: And I don't think it was either. Thank you. [LB380 LB485 LB385]

SENATOR ASHFORD: Thanks, Doctor. [LB380 LB485 LB385]

LOUIS SAFRANEK: I am Dr. Louis Safraneck. I'm a graduate of Harvard Medical School, a board-certified internist and, by virtue of my training at the National Institutes of Health, a specialist in infectious diseases. Nearly 30 million people have died of AIDS in the past 30 years. In the United States, gay men continue to account for the majority of HIV cases and the epidemic continues to be fueled by the promiscuity of gay men. This was documented in a study organized by the Centers for Disease Control and published in the Annals of Internal Medicine in August of 1983. The study looked at gay men with AIDS and a large matched control group of gay men without AIDS from around the United States. Both groups averaged 35 years of age. Gay men with AIDS had averaged more than 900 different sexual partners by the age of 35. Gay men without AIDS had averaged about...had averaged more than 400 different sexual partners by age 35. A similar study of gay men in Annals of Internal Medicine in 1984 documented an average of 788 different sexual contacts by an average age of 33. Most of these were one-time sexual encounters. The average age of first sexual contact with a male averaged 15.5 years. Both studies also documented the use of illegal drugs by majorities of gay men. These studies and others depict the extreme sexual promiscuity and lifestyle of gay men that continues to drive the epidemic of HIV as well as other sexually transmitted diseases. These behaviors represent a dangerous and reprehensible attitude to human sexual sexuality. The effects of these behaviors spill over to the larger community and exact a toll from women and children who are

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inadvertently infected with HIV and other sexually transmitted diseases. The cost to treat the more than 1 million HIV patients in the United States at an estimated lifetime cost of \$300,000 to \$500,000 will be over \$3 billion, a cost that will largely be paid by taxpayers. The law criminalizes pedophiles, polygamists, and prostitutes. I urge the members of the Legislature to reject LB485 that criminalizes business owners who see that the differences, such as I have highlighted, are in fact a legitimate basis for discriminating homosexuals from others who in particular circumstances they might choose to hire. I would also urge the Legislature not to pass LB380 and LB385 or any other bills that suggest that the gay lifestyle or any of the LGBT lifestyles are equivalent to the healthy sexual norm of sex within the context of marriage, between monogamous men and women. Thank you. [LB380 LB485 LB385]

SENATOR ASHFORD: Yeah, Senator Christensen first and then Senator Chambers. [LB380 LB485 LB385]

SENATOR CHRISTENSEN: Thank you, Chairman. Are you trying to say these are bad people, that homosexuals are...? [LB380 LB485 LB385]

LOUIS SAFRANEK: No. No. No. [LB380 LB485 LB385]

SENATOR CHRISTENSEN: Okay, you know, in your last comparison, I just want to clarify. [LB380 LB485 LB385]

LOUIS SAFRANEK: No. No. No. No. No, I do not see them as bad people. As an infectious disease specialist for the past 30 years, I've had the privilege to treat countless homosexual patients and their loved ones. But as in the case of LB380 and LB385, I view their behaviors as inappropriate models for children whose placement is under the control of the state. Earlier this week I attended a legislative hearing regarding LB131, the Tobacco-Free Schools Act. That act will prohibit the use of tobacco products by students, staff, or visitors at any time on school property. A proponent of the bill indicated it would prohibit someone attending a high school football game from chewing tobacco in the parking lot. [LB380 LB485 LB385]

SENATOR CHAMBERS: Doctor. [LB380 LB485 LB385]

LOUIS SAFRANEK: Does this mean...does this... [LB380 LB485 LB385]

SENATOR ASHFORD: Yeah, just let me...let me... [LB380 LB485 LB385]

SENATOR CHAMBERS: I was going to ask him a question. [LB380 LB485 LB385]

LOUIS SAFRANEK: ...does this mean that the person chewing tobacco... [LB380 LB485 LB385]

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SENATOR ASHFORD: Let me finish this sentence. Time out. Finish your sentence and then we're going to ask Senator Chambers to give...ask his question. [LB380 LB485 LB385]

LOUIS SAFRANEK: Okay. Does this mean that the person chewing tobacco in the parking lot is a bad person? I don't think so. But as the speaker pointed out at that session, chewing tobacco is modeling behavior that a child should not see as normative. Therefore, that bill would penalize such behavior in the interests of our children. [LB380 LB485 LB385]

SENATOR ASHFORD: All right. Let's go to Senator Chambers' question. [LB380 LB485 LB385]

SENATOR CHAMBERS: You are, Doctor, you're a medical doctor? [LB380 LB485 LB385]

LOUIS SAFRANEK: I am, sir. [LB380 LB485 LB385]

SENATOR CHAMBERS: Did you say you're from Harvard? [LB380 LB485 LB385]

LOUIS SAFRANEK: I took my degree from Harvard. [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay. And where do you practice now? [LB380 LB485 LB385]

LOUIS SAFRANEK: In Omaha. [LB380 LB485 LB385]

SENATOR CHAMBERS: And where were you practicing when you dealt with all of these infected homosexual men? [LB380 LB485 LB385]

LOUIS SAFRANEK: I've been dealing with them from my time here in Omaha, at the National Institutes of Health, on the faculties at University of Nebraska. [LB380 LB485 LB385]

SENATOR CHAMBERS: So this wasn't in one location. This was during the course of your career as a doctor. [LB380 LB485 LB385]

LOUIS SAFRANEK: Yes. [LB380 LB485 LB385]

SENATOR CHAMBERS: And how long has that career been in term of years? [LB380 LB485 LB385]

LOUIS SAFRANEK: Oh, let's see, that would be... [LB380 LB485 LB385]

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SENATOR CHAMBERS: Roughly. [LB380 LB485 LB385]

LOUIS SAFRANEK: ...about 30, going on 35 years. [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay. Now you say these individuals, you had individuals who had 900 sexual partners in a given period of time? [LB380 LB485 LB385]

LOUIS SAFRANEK: No, I didn't have that. That was the average documented in a large study in the Annals of Internal Medicine. [LB380 LB485 LB385]

SENATOR CHAMBERS: And they're...whoever gave that, put that study together? [LB380 LB485 LB385]

LOUIS SAFRANEK: Uh-huh. The Centers for Disease Control. [LB380 LB485 LB385]

SENATOR CHAMBERS: Say it again. [LB380 LB485 LB385]

LOUIS SAFRANEK: The Centers for Disease Control in Atlanta. [LB380 LB485 LB385]

SENATOR CHAMBERS: But I'm talking about the individual. Some individual did the study. Is that correct? [LB380 LB485 LB385]

LOUIS SAFRANEK: A group of physicians from around the country. [LB380 LB485 LB385]

SENATOR CHAMBERS: So they combined the information they had and came up with those statistics that you gave to us? [LB380 LB485 LB385]

LOUIS SAFRANEK: They did. [LB380 LB485 LB385]

SENATOR CHAMBERS: Well, is it a conclusion from that study, if we accept it as being valid, that one person may have had 700 to 900 sexual partners? [LB380 LB485 LB385]

LOUIS SAFRANEK: Actually, the results of the study were that the average number of sexual partners by age 35 was that many. [LB380 LB485 LB385]

SENATOR CHAMBERS: By age 35, so that meant during their entire lifetime up until they were 35. [LB380 LB485 LB385]

LOUIS SAFRANEK: Yes. [LB380 LB485 LB385]

SENATOR CHAMBERS: This is an epidemic when we talk about HIV/AIDS. Would you

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agree? [LB380 LB485 LB385]

LOUIS SAFRANEK: Yes. [LB380 LB485 LB385]

SENATOR CHAMBERS: And it's not going to be wished away. Do you agree with that? We cannot say, I wish... [LB380 LB485 LB385]

LOUIS SAFRANEK: No. [LB380 LB485 LB385]

SENATOR CHAMBERS: ...it would go away... [LB380 LB485 LB385]

LOUIS SAFRANEK: No. [LB380 LB485 LB385]

SENATOR CHAMBERS: ...and it will go away. It has to be addressed, in other words. [LB380 LB485 LB385]

LOUIS SAFRANEK: Yes. [LB380 LB485 LB385]

SENATOR CHAMBERS: Do you agree? Do you agree or disagree? [LB380 LB485 LB385]

LOUIS SAFRANEK: I agree. [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay. Now since we know that this kind of activity is going to be engaged in, do you recommend that people engaging in this kind of activity use condoms? [LB380 LB485 LB385]

LOUIS SAFRANEK: I think people should take every measure possible to prevent this. Ideally, they would be engaged in monogamous relationships. [LB380 LB485 LB385]

SENATOR CHAMBERS: But if it that's not going to happen,... [LB380 LB485 LB385]

LOUIS SAFRANEK: Uh-huh. [LB380 LB485 LB385]

SENATOR CHAMBERS: ...for example, Ms. Reagan (phonetic)... [LB380 LB485 LB385]

LOUIS SAFRANEK: But, sir, I think it's important in the law that we embody the norm that we wish, just as we're not going to stop people from smoking tobacco but the law...but the law will abolish... [LB380 LB485 LB385]

SENATOR CHAMBERS: No, but here I'm not talking about that. [LB380 LB485 LB385]

SENATOR ASHFORD: No. Time out. Time out again, because we're going to be here

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till midnight. Just let's question, answer; question, answer. Let's go with that. [LB380 LB485 LB385]

SENATOR CHAMBERS: Is it your view that people who engage in this kind of conduct should use condoms if they're going to engage in it? Or do you think they should not use condoms? [LB380 LB485 LB385]

LOUIS SAFRANEK: They should... [LB380 LB485 LB385]

SENATOR CHAMBERS: They should not? [LB380 LB485 LB385]

LOUIS SAFRANEK: ...they should take whatever protection they can, uh-huh. [LB380 LB485 LB385]

SENATOR CHAMBERS: They should use them? [LB380 LB485 LB385]

LOUIS SAFRANEK: Yes. [LB380 LB485 LB385]

SENATOR CHAMBERS: All right. Now when it comes to HIV/AIDS, should there be educational programs explaining to people how this virus is contracted and what can be done if it happens to be contracted? [LB380 LB485 LB385]

LOUIS SAFRANEK: When you say educational programs, do you mean for adults who are at risk? [LB380 LB485 LB385]

SENATOR CHAMBERS: Where they're given public information about HIV/AIDS, how to avoid it, if possible. [LB380 LB485 LB385]

LOUIS SAFRANEK: Sure. And that information is widely available, needless to say. [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay. Now when we come to the bill that we have before us talking about making it against the law to discriminate against somebody in employment because of their sexual orientation, is it your view that everybody with that orientation is engaged in a sexual relationship? [LB380 LB485 LB385]

LOUIS SAFRANEK: The average person is. [LB380 LB485 LB385]

SENATOR CHAMBERS: But not all. If you say average, you mean some are not. Is that correct? [LB380 LB485 LB385]

LOUIS SAFRANEK: I don't know based on any data. [LB380 LB485 LB385]

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SENATOR CHAMBERS: Well, as a doctor can you know... [LB380 LB485 LB385]

LOUIS SAFRANEK: I would say most of the gay patients that I encounter are engaged in large numbers of sexual relationships. [LB380 LB485 LB385]

SENATOR CHAMBERS: Well, you're talking about patients. We're not just talking about patients in the law. It's a law that will cover every situation in society. I'm not aware of any doctor, even following the scientific method and maybe because of that, who will speak in absolutes that maybe most people who get pancreatic cancer are going to die and there's not going to be much time elapsing between the onset of symptoms and the death. Pancreatic cancer is horrendous, but I still don't know that there's a doctor who says that every person who will ever get pancreatic cancer is going to die. Now I'm going to ask you, would you take it as an absolute that whoever gets pancreatic cancer is going to die? [LB380 LB485 LB385]

LOUIS SAFRANEK: Yes. [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay. [LB380 LB485 LB385]

LOUIS SAFRANEK: Because all of us die, sir. (Laughter) [LB380 LB485 LB385]

SENATOR CHAMBERS: From pancreatic cancer. [LB380 LB485 LB385]

SENATOR ASHFORD: Come on. Please, please, please. [LB380 LB485 LB385]

SENATOR CHAMBERS: From pancreatic cancer. [LB380 LB485 LB385]

LOUIS SAFRANEK: Do I think that every person who has pancreatic cancer will die of pancreatic cancer? [LB380 LB485 LB385]

SENATOR CHAMBERS: Yes. [LB380 LB485 LB385]

LOUIS SAFRANEK: No, he might be in a car accident before he dies of pancreatic cancer. [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay. So not everybody who is homosexual is going to be actively engaged in a sexual relationship. Isn't that true? [LB380 LB485 LB385]

LOUIS SAFRANEK: Ask me that again. I... [LB380 LB485 LB385]

SENATOR CHAMBERS: That's all right. I don't have anything else to ask you. [LB380 LB485 LB385]

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LOUIS SAFRANEK: Okay. Very good. [LB380 LB485 LB385]

SENATOR ASHFORD: Thanks, Doctor. Okay, let's go to the next. [LB380 LB485 LB385]

JAMES PATTERSON: Good afternoon, Senators. My name is James Patterson. I'm the pastor at Trinity Hope Foursquare Church. I also head up an organization called the North Omaha Good News Bears. Senator Chambers, good to see you again, and Senator Ashford. I consider it a privilege to come here to speak to you to hear my opinion, and this is my opinion. I do not have a prepared statement but I'm standing in opposition to LB485 on the basis of comparing the plight or the history of the gay experience to that of the African-American experience. As I think it was Senator Coash mentioned, from the Civil Rights Act of 1964, how it identified criteria for identifying special classes and one of them had to do with that they could not hide, they stood out. And forgive me for my language, I'm just speaking from the top of my head, but they could not blend in and they had to be economically deprived. And all of the three criteria that they identified, the GLBT community, from my limited knowledge, does not meet that criteria, wherein on the other hand the African-American experience is deeply enrooted in oppression, deeply enrooted in denial of opportunities because...not because of their abilities but because of their perception from afar. And so any comparison to the countless hundreds of thousands of African-Americans who have died from slavery and property taken and the whole history...and the Civil Rights Act was passed trying to fix this wrong, trying to adjust it. As I remember, they took great deliberation trying not to take one person's rights from one group and give it to another, but they tried to...there was a lot of deliberation with regard to that. Personally, I don't...anybody...the GLBT community needs to be able to work like anybody else and I would not be for them not being able to have a job or not being able to support their families. But whenever you start asking people who have deeply held religious convictions to deny their faith, then you come to a point that of...that we sever that. I cannot support that. But moreover, any comparison to the suffering or the differences that the...and I will conclude. I will follow your rules. I will respect your rules, okay? [LB380 LB485 LB385]

SENATOR ASHFORD: I know you will, Reverend Patterson. [LB380 LB485 LB385]

SENATOR LATHROP: Thank you. [LB380 LB485 LB385]

JAMES PATTERSON: You're welcome. [LB380 LB485 LB385]

SENATOR CHAMBERS: I'll ask a question or two. First of all, I've never made that comparison and I wouldn't. However, when we look at the law that's on the books right now that prohibit discrimination in employment against somebody based on their marital status, nobody makes a comparison between whatever a person's marital status is and

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the experience that we had as black people. Yet the protection is there. Religion, religious people in this country have never encountered the discrimination and oppression we have, and their religion is something that they can keep to themselves and the only way anybody knows what it is, is if they tell it. Yet there is a prohibition against discrimination based on religion. Now you said you believe that members of the GLBT community, I never use the initials but the community that we're discussing, have a right to earn a living. Well, suppose everybody who would be an employer would say, my religion prevents me from hiring you and the result is that there's no place for such people to work? Is that a Christian view that certain people should be outside the pale and not allowed to work? [LB380 LB485 LB385]

JAMES PATTERSON: I would say that I...that question is a good question, Senator, and compounding that question also recognizes that the people in the GLBT community is far from it, in any way you could...any shape, form, or fashion, because, educationalwise, they surpass the average in society. Jobwise, incomewise, and every other standard, they surpass the norm. So that question is a little bit far-fetched because... [LB380 LB485 LB385]

SENATOR CHAMBERS: But, Pastor,... [LB380 LB485 LB385]

JAMES PATTERSON: Yes, sir. [LB380 LB485 LB385]

SENATOR CHAMBERS: ...that is not true of everybody who is a member of that community, anymore than it's true to say that all Jews are rich or... [LB380 LB485 LB385]

JAMES PATTERSON: Sir, I apologize. [LB380 LB485 LB385]

SENATOR CHAMBERS: ...or that all black people... [LB380 LB485 LB385]

JAMES PATTERSON: I withdraw that. [LB380 LB485 LB385]

SENATOR CHAMBERS: ...or that all black people can sing and dance, because I can't do either one. [LB380 LB485 LB385]

JAMES PATTERSON: Okay. [LB380 LB485 LB385]

SENATOR CHAMBERS: And the point that I'm getting to, you were making a serious point and I'm not discounting it, but as a policymaker, I have to look at what is actually happening. See, I know gay people who, once they were found to be gay, lost the job. I know people who lost a job because somebody maliciously said that they were gay and that's the word that went around the workplace and they were fired on the basis of what people said. So that's used as a weapon against people who are gay and people who

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are not gay but who are identified as such, which shows the level of animus, hostility against these people. You're a member, even if not in the geographical area of the District 11, who could be considered one of my constituents. Would you say that the people in that community are aware of my nonreligious orientation? [LB380 LB485 LB385]

JAMES PATTERSON: I would say they are. They know you quite well. [LB380 LB485 LB385]

SENATOR CHAMBERS: And they voted for me anyway. [LB380 LB485 LB385]

JAMES PATTERSON: They did. There was...they did, Senator. [LB380 LB485 LB385]

SENATOR CHAMBERS: And... [LB380 LB485 LB385]

JAMES PATTERSON: As you know, there was a little bit of...with your opponent, there were some things that happened so...but we don't know if those things had not happened, we don't know how that final vote would have occurred. But we know as it did turn out, they voted for you anyway, absolutely. [LB380 LB485 LB385]

SENATOR CHAMBERS: But at the primary, none of that was known and I won the primary without even campaigning. But here's the point that I'm getting to. I, as a policymaker, need not compare one person's misery with another person's misery and say that one is greater than the other; therefore, the lesser misery need not be addressed. When I was young, I was reared in a fundamentalist church. [LB380 LB485 LB385]

JAMES PATTERSON: I know. [LB380 LB485 LB385]

SENATOR CHAMBERS: I was looking for answers, even when I got to high school, and I did something most adults probably haven't done. I've read the Bible from cover to cover eight times, and I kept track every day of every book, every chapter, every verse that I read, and I was looking for answers because I didn't see reflected in the lives of the people, who claimed to be religious or they called themselves Christians, what was in the book. But there was one verse that stuck out in my mind. Jesus told his disciples, when they were very offended that there were people not saying what they were saying or living in the way that they were living, Jesus said, other sheep I have that are not of this fold. And then in other places, don't you judge, let the wheat and the tares grow together. And when time comes to make a separation, I will make the separation. Who art thou that judges another man's servant? With the same measure you judge it shall be meted unto you. Now that doesn't necessarily apply to anybody, but where I find what I consider sound counsel, I will accept it, whether in that book that I call the "Bible," Aesop's Fables, Grimm's Fairy Tales, or listening to people who disagree with

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me on everything. So I'm not in a position where I can say that people should not be allowed to work because of their orientation. There's certain privileges that business people enjoy that are bestowed by this society and this government. They're not natural rights; they are privileges granted by the state and protected by the state. If a person decides to incorporate, there are certain privileges that that status of incorporation gives to that person. The Fourteenth Amendment applies to corporations as it does to human beings. So when it comes to those rights granted by the state, if somebody is going to accept and apply those rights for himself or herself, I'm going to do all I can to make sure they're not denied to anybody else. So I don't try to change people's view. I don't try to change their mind. I can't do it. It's not going to work. But I try to make crystal-clear as to what I'm going to do as a public official. I don't hide it. And if the only way I stay in this office is to have people vote for me, I let them know exactly what they're voting for because that's what they're going to get. And in this particular situation, if every person who is gay or lesbian fit in the category that you described, that they need a job, I would fight for their right not to be discriminated against. There were some farmers out in Cairo, Nebraska, and they belonged to a group called the Posse Comitatus, and one of the groups they really disliked--us, which is not surprising to us. When one of their number was killed by the State Patrol, no Christian came forth, not Baptist, Methodist, Catholic, or any other one, I came to the aid of that family and as a result of what I did, and no politician either, the State Patrol changed its policies for dealing with stressed farmers. They would not have fixed-wing planes flying overhead. They would not have helicopters flying and hovering. They would not have cruisers blocking every entryway to that farm to isolate the person. They had trained individuals. They didn't keep the family from communicating with that person and there was transparency, and no farmer has been killed since that day by the State Patrol. When the State Patrol wanted to justify what they were doing, after I put heat on them publicly, they laid out on a table, and photographed it, all these weapons that they found in his house. The family asked me would I come to the house, which I did. I looked at the weapons. Some of them were collector's items, 80 years old. Some of them would not even work. They were rusted shut. The State Patrol just laid them all out there as though they're operational weapons. They laid out buckets of ammunition. Some of it would not fit a single one of those weapons. Now if I were going to act toward them the way they acted toward us, I would say that's one less racist. But what I told them, if you are going to display for the public what was in this person's house, when I went out there I saw Bibles in every room, put the Bibles on the table too. Here's what I'm getting at. People make a profession of being Christian or religious, and you've seen how some of the behavior has been here. We don't have those outbreaks when we're dealing with people who don't make religious professions. We don't have people running over the time and not respecting the rules of the committee. But whenever we have religious groups here, that often happens and that's what I make my judgment by. So when they show that kind of attitude, then I don't put a lot of stock in what they say are their ethical standards that are offended if somebody of a certain sexual orientation wants a job. Now I'm mentioning that because I believe you're a sincere man, but you and I don't see

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eye to eye on this. I can respect your religion and... [LB380 LB485 LB385]

JAMES PATTERSON: And I respect you, Senator. [LB380 LB485 LB385]

SENATOR CHAMBERS: And I understand that. But I'm using this opportunity so that it's clear that I say to representatives of my community who have an audience of their own what it is that I believe and don't believe, because, as I've stated, when nobody from my community was here, that I don't hide my views. This establishes definitely that I do not hide my views. And now I have to put this question to you. If you had a business, would you refuse to hire somebody on the basis of his or her sexual orientation? [LB380 LB485 LB385]

JAMES PATTERSON: I...that... [LB380 LB485 LB385]

SENATOR CHAMBERS: Let's say you had a car wash or something like that. [LB380 LB485 LB385]

JAMES PATTERSON: I'm a pastor. Okay? That's my business and I would not, I would not hire somebody contrary to my values. I would not. [LB380 LB485 LB385]

SENATOR CHAMBERS: To do what? [LB380 LB485 LB385]

JAMES PATTERSON: I would not hire anyone contrary to my values. [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay. If you...so you wouldn't have...are there members of your church who are gay or lesbian that you know of? [LB380 LB485 LB385]

JAMES PATTERSON: I serve people who are. [LB380 LB485 LB385]

SENATOR CHAMBERS: So what lines do you draw in your church that they cannot cross which other members who are heterosexual can cross? [LB380 LB485 LB385]

JAMES PATTERSON: Well, I serve everybody but I choose who is in leadership. I serve everybody, but I wouldn't put them in leadership. But I would make sure, and I would protect them, that they would not be treated unfairly. [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay, so not employing, why would you not put them in a leadership role? [LB380 LB485 LB385]

JAMES PATTERSON: Senator, I think that I would be more inclined to look for people who share my values and on values... [LB380 LB485 LB385]

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SENATOR CHAMBERS: So then there would be nobody who is homosexual who holds any position as a deacon or whatever the other positions are in the church. [LB380 LB485 LB385]

JAMES PATTERSON: I wouldn't go...I wouldn't go seeking them, Senator. That would not be my pursuit, absolutely not. I know, I mean consider any business, a business, I would think most businesses... [LB380 LB485 LB385]

SENATOR CHAMBERS: Could one lead the choir? Could a homosexual lead the choir? [LB380 LB485 LB385]

JAMES PATTERSON: Well,... [LB380 LB485 LB385]

SENATOR CHAMBERS: Could a homosexual sing in the choir? [LB380 LB485 LB385]

JAMES PATTERSON: I tell you what, all things are possible. [LB380 LB485 LB385]

SENATOR CHAMBERS: Would you allow a person to sing in a choir who is known to be a homosexual? [LB380 LB485 LB385]

JAMES PATTERSON: I would...I... [LB380 LB485 LB385]

SENATOR CHAMBERS: You know I'm not trying to put you on the spot. [LB380 LB485 LB385]

JAMES PATTERSON: No, I would toy with that. [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay. That's all I have. Thank you. [LB380 LB485 LB385]

JAMES PATTERSON: I would toy with that, but the homosexual, anybody homosexual, they are people too. They are people too. [LB380 LB485 LB385]

SENATOR CHAMBERS: Thank you, Brother. [LB380 LB485 LB385]

JAMES PATTERSON: And so but I... [LB380 LB485 LB385]

SENATOR ASHFORD: Thanks... [LB380 LB485 LB385]

JAMES PATTERSON: ...but they just don't...I wouldn't... [LB380 LB485 LB385]

SENATOR ASHFORD: Go ahead. Finish. [LB380 LB485 LB385]

JAMES PATTERSON: With regard to values, don't ask me to throw away my values,

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because when you do, you tear down my principles which I live by. And then when you...as you begin to tear down a person's values, where does it stop? [LB380 LB485 LB385]

SENATOR CHAMBERS: Well, see, that's what I asked you. Instead of saying in my view you ought to, I was asking to elicit from you what your value would lead you not to allow a homosexual person to do in your church. [LB380 LB485 LB385]

JAMES PATTERSON: Okay. [LB380 LB485 LB385]

SENATOR CHAMBERS: Okay. [LB380 LB485 LB385]

JAMES PATTERSON: And thank you very much for your time. Thank you. [LB380 LB485 LB385]

SENATOR ASHFORD: Thanks, Pastor Patterson. [LB380 LB485 LB385]

JAMES PATTERSON: You're welcome. Thank you. [LB380 LB485 LB385]

AL RISKOWSKI: (Exhibit 35) Good evening, Senators. Al Riskowski, R-i-s-k-o-w-s-k-i, executive director, Nebraska Family Council. We've been after it...at it for 25 years. I've been an ordained minister for 30 years. One piece I think that would be important for me to read, we helped craft a proclamation that was put in the Omaha World-Herald about a year ago where 300-plus ministers signed it. And I'm just going to read a couple sentences as it leads off, and it says this: We humbly apologize for any ill-will shown toward the homosexual or gender identity community by anyone representing the body of Christ. We condemn violence or hatred perpetrated against anyone based on their sexual preference. I'll stop there. I firmly believe that and propose that. I oppose LB485, and that's why I'm here today, because this attempt, and I want to emphasize this attempt, to solve employment discrimination based on sexual orientation causes numerous unintended consequences. And here's what I mean by that. This bill would create a very unique, protected class. All other current protected classes are limited to identifying a clearly definable group, such as race, disability, etcetera. LB485 prohibits discrimination based upon sexual orientation. In this unique situation, you prohibit discrimination just...not just of a group of people but it also extends to their behavior. The protection of behavior is where many unintended consequences develop. With sexual orientation, you are not able to disconnect how a person sexually identifies him or herself with their sexual behavior. Thus, an employer cannot take into consideration an individual's sexual behavior when hiring or firing. When you create sexual rights, you infringe upon another individual's constitutionally protected rights of freedom of speech, freedom of religion, and freedom of thought. I guess I'll close with just this thought. I am more than willing to offer my time to explore how to protect all people from unjust discrimination in the workplace as, Senator Chambers, you just referred to. But back

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when we last discussed this, there was the theory that what will it create? What are the side effects? And I just put on the back some of the things that are happening in Europe. They're well ahead of us. In some of the other cases that are happening in the United States, this is a gigantic concern to me that we're going to be taking away constitutionally defended rights to try and protect other rights in this type of legislation. So thank you for your time. [LB380 LB485 LB385]

SENATOR CHAMBERS: The Pastor and I have gone round and round for so many years on this, I don't have any questions to ask you at this point. [LB380 LB485 LB385]

AL RISKOWSKI: Yeah. (Laugh) Well,... [LB380 LB485 LB385]

SENATOR ASHFORD: Thank you, Al. [LB380 LB485 LB385]

AL RISKOWSKI: ...I'd be glad to answer any, but... [LB380 LB485 LB385]

SENATOR ASHFORD: Thanks, Al. [LB380 LB485 LB385]

AL RISKOWSKI: You're welcome. [LB380 LB485 LB385]

SENATOR ASHFORD: Okay, let's proceed along. [LB380 LB485 LB385]

DAVE BYDALEK: Chairman Ashford, members of the committee, my name is Dave Bydalek. That's B-y-d-a-l-e-k. I'm the executive director of Family First. I testify today in opposition to all the bills, but I'm going to spend my time on LB380. We believe that LB380 signifies a substantial and we also think an unwise change in Nebraska public policy on the issue of adoption. The State Supreme Court has often acknowledged that the protecting the well-being of children and ensuring their proper care and nurture of utmost importance when reviewing the adoption laws of Nebraska. The state has an important interest in establishing a stable environment for children. The result of LB380 would be a stark departure from these principles by allowing any two persons, regardless of marital status, to jointly adopt a child. The plain meaning of the bill would open up adoptions to an endless array of possibilities. The practical effect of allowing an unmarried couple to jointly adopt a child would be to place that child into an environment with two entirely autonomous decision makers, that is two people unconnected by law with no legal obligations to one another. If one of these individuals decided to end the relationship, there is no legally defined exit strategy to benefit the best interest of the child. Our current law reflects that such an environment does not serve the best interest of an adopted child. While LB380 provides no requirement that two individuals wishing to adopt be cohabiting, the practical result will be that cohabiting couples will be put on an equal footing with married couples in eligibility to adopt. This is a change which we believe is unwise if the well-being of adopted children in Nebraska is our chief priority. There's a convincing body of research indicating cohabiting

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relationships are far less healthy than marital relationships in some very important measures, and that kids do not fare nearly as well in many important measures of well-being. Here are just a few: Family instability is nearly guaranteed for children who live with cohabiting parents and contributes to a host of other problems. In 2002, over half of children born into cohabiting families saw their parents' relationship dissolve by age nine, compare to over 20 percent of children born into married families, representing a staggering 246 percent increased risk of parental separation for children of cohabiters. I will present some of these findings and these results to the committee. One I do want to point out is a child living in a home with his or her biological mom and a live-in boyfriend is highly likely to suffer physical or sexual abuse. In fact, the rates of abuse of those children is astronomical. As far as same-sex cohabiting couples, various studies have shown that instability in these relationships appears to be similar to those in homosexual...heterosexual relationships. The study done last year by Professor Mark Regnerus at the University of Texas reveals that having a parent who is or has been in a same-sex relationship is generally associated with more negative adult outcomes, especially when compared with children from an intact biological family. [LB380 LB485 LB385]

SENATOR ASHFORD: Thanks, Dave. [LB380 LB485 LB385]

DAVE BYDALEK: Thank you, Senator. [LB380 LB485 LB385]

SENATOR ASHFORD: Okay. The only thing I would say is obviously these people can't marry so the data you're talking about or you're talking about data that's not even remotely related to the situation we're talking about. [LB380 LB485 LB385]

DAVE BYDALEK: Well, actually the Regnerus study, Senator, is and in fact... [LB380 LB485 LB385]

SENATOR ASHFORD: Well, you know, they can't marry so I don't understand what you're talking about. [LB380 LB485 LB385]

DAVE BYDALEK: Well,... [LB380 LB485 LB385]

SENATOR ASHFORD: But thank you very much. [LB380 LB485 LB385]

DAVE BYDALEK: Okay. Okay, thank you, Senator. [LB380 LB485 LB385]

SENATOR ASHFORD: Thanks for your point. Okay, you know, okay, next. I'm sorry. Then we'll go over here. [LB380 LB485 LB385]

KYLE GOMEZ: Going to get my watch on here so I can kind of catch myself on time. Real quick just give my name, Kyle Gomez, K-y-l-e G-o-m-e-z. I just want to quick,

being as the sheet said it was a testifier sheet, if I could just quickly in a minute give my testimony very quick so you can see where I'm coming from. Years ago as a young man you've heard it said many times probably before, maybe yourself, that you found the Lord. Maybe you've heard that before. That wasn't me, okay? I didn't find the Lord, but good enough that He found me, okay? And when I was going the other way, He stopped me and He saved me. And based on that relationship, His love for me and His word, I believe that these bills, the three bills that are being talked about today, I don't believe that I can stand for those bills, as my personal belief as a Christian. I don't have a lot of scripture because I don't have time for that, but on some...I'll just look at a couple of the bills here very quickly. LB380, the statement of intent, LB380 seeks to ensure the adoption...that adoption law reflects the diversity of the modern family, because when families are healthy and strong the entire state benefits. And that's probably true. There is diversity and families have changed. But according to the Word and my savior, He does not change and I don't believe He would stand for that. And also in the other bill, LB485, LB485 prohibits discrimination based on sexual orientation. Under LB485, it would be an unlawful employment practice for an employer, an employment agency, or a labor organization to discriminate against an individual on the basis of sexual orientation. I was thinking today when we first started, sexual orientation, Senator Coash asked...is it Senator Conrad what that definition was. And I don't have time to go over that, all the things it could be. I think there will be some testimony on that. But you asked it if could be polygamy or some different things, and she said, no, it would be homosexuality, bisexuality, which I don't agree with that to begin with. But that's not the definition of it. The definition of it is a person's predisposition or inclination toward a particular type of sexual activity. So if you look at that, you say where do we draw the line? I think there will be testimony showing that that line can be way further above. [LB380 LB485 LB385]

SENATOR ASHFORD: Thanks, Kyle. [LB380 LB485 LB385]

KYLE GOMEZ: Yes. [LB380 LB485 LB385]

SENATOR ASHFORD: Thanks for your comments. Next testifier. What we're going to do, there's about 35 minutes more discussion on the opposing side with the discussions that Senator Chambers and I had with witnesses, so at 25 minutes of 6:00 we will conclude the opponent side, which is 15 minutes or so. Thank you. [LB380 LB485 LB385]

PAUL MALCOMSON: Pastor Paul Malcomson. I'm a pastor of Light of the World Gospel Ministries on the Omaha Indian Reservation. I wish I could say I had 4,300 of a congregation, but at the time there's only 800, so we have about 120 in that time and hopefully a growing congregation. I'm here today to oppose LB380, LB385, and LB485. As our last speaker mentioned, one of the proponents of one of these bills dismissed the possibility of equality for polygamists, or again she...that she only supported

traditional sexual orientation, whatever that means. By conceding this, she exposed the duplicity of her position, I believe the position, liberal position on these three bills. Her legislation actually protects every single sexual possibility. And I just want to share a few things. Milton Diamond, a University of Hawaii professor, he's a lecturer for the Institute for the Advanced Study of Human Sexuality, on the Web site he says, defining basic sexual rights, says it is the right to engage in sexual acts or activities of any kind whatsoever, providing they do not involve nonconsensual acts, violence, constraints, coercion, or fraud. Goes on to say it is the right to be free of persecution, condemnation, discrimination, or societal intervention in private sexual behavior. I put it to you that this committee and this house has been asked to support bills today that have no boundaries as to what is right and wrong. And that's what the question is: Is there such a thing today, in our day, as right and wrong? They provide no protection for the children in our state, in fact quite the opposite. They legalize, legitimize, and protect any type of sexual behavior from homosexuality to pedophilia to bestiality to polygamy to incest to the desire to have sex with the dead. Sexual orientation covers everything. So I put it to you that there is such a thing as right and wrong when it comes to sexual orientation. You can't say somebody's race is wrong. You can't say that somebody's nationality is wrong. I'm from Northern Ireland originally. I've lived in Nebraska six years. But you can say, according to this book. This book determines what is right and what is wrong. If this book is not the last court of appeal, then what is the last court of appeal? And with all due respect, and I know this committee, this house does a wonderful job, who do we, as the citizens of Nebraska, who do we side with? Do we side with what God teaches is right and wrong, or do we side with this committee and this house?
[LB380 LB485 LB385]

SENATOR ASHFORD: Thank you very much. Okay. Next. [LB380 LB485 LB385]

CAROL CLOUGH: (Exhibit 36) Feels good to sit down. Good afternoon, Senators. Senator Ashford, it's an honor and a privilege to address you all today and I appreciate your thoroughness and your patience. My name is Carol Clough, C-a-r-o-l C-l-o-u-g-h. I'm not...I'm just a citizen, but I am opposed. I want to speak specifically to LB485. I was present in all of the hearings in Omaha when our city council passed similar legislation covering the same issue and one thing that stuck out to me, in listening to the hours and hours of testimony, is that although the LGBT community stresses the need for protected class status, several proponents of that ordinance, all successful young people, testified. Wes from Elkhorn says, I stand before you as a successful example of what is possible in Omaha. Another young lady, Ruth, says, I am a member of every category of minority. She's an immigrant, female, person of color, and lesbian. She said, in Omaha I have found my search for a safe place in the world; I have the safe space to tell my story. John T. from Omaha says, I choose to live here, supported professionally and in my neighborhood. This was, you know, this was testimony prior to the passing of that orientation ordinance. And in contrast to these confident, sharp individuals who have no doubt experienced their own share of hardship and yet have the boldness to

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live without compromise, to be who they are in the public arena and in private, there are others, and we heard some of that testimony today, who seem paralyzed with fear and stuck in a victim mentality with a common theme of pass this legislation so I don't have to be afraid again. I know enough to know that you can't legislate away a person's fear or their hesitancy to be who they are. Other points that I have, have already been touched on by others, but...and I am not an attorney. I am a housewife so bear with me. But I do know that words mean things and, for instance, it's problematic for me when Senator Conrad cannot just give us, you know, what is the definition of sexual orientation. That should be a no-brainer. And then in reading the bill itself, there seems where there's ambiguity of the wording. In Section 7, page 17, line 11 refers to "deprive or tend to deprive." Section 11, line 15, refers to "those certain instances when." Well, what might those instances be and who gets to decide whether they're relevant or not? Section... [LB380 LB485 LB385]

SENATOR ASHFORD: Carol, I'm going to have to cut you off. [LB380 LB485 LB385]

CAROL CLOUGH: Okay. Well, you can read the others. [LB380 LB485 LB385]

SENATOR ASHFORD: Let's go to the...do we have any questions of Carol? Thanks. None that I can see. Let's go to the next testifier. [LB380 LB485 LB385]

CAROL CLOUGH: Thank you. [LB380 LB485 LB385]

SENATOR ASHFORD: We have one more testifier in opposition. Are there any neutral testifiers? Oh, this will conclude the hearing after this. [LB380 LB485 LB385]

SENATOR SEILER: Brad, you might tell them they can sign up, the ones that are doing it. [LB380 LB485 LB385]

SENATOR ASHFORD: Yeah, I will. We want, just so everybody understands, we went 35 minutes longer than we did on the proponent side, so that's the way we're going to do it in that. So I appreciate every...I understand some people aren't going to get to testify but you can certainly fill out the sheet and indicate your opposition or support, but I have to keep the times equal so... [LB380 LB485 LB385]

SENATOR DAVIS: If they have handouts, can they turn those in? [LB380 LB485 LB385]

SENATOR ASHFORD: What? [LB380 LB485 LB385]

SENATOR MCGILL: Yeah. Go ahead bring them up, Jim. Go ahead. [LB380 LB485 LB385]

_____ : (Inaudible). [LB380 LB485 LB385]

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SENATOR MCGILL: Yeah. [LB380 LB485 LB385]

SENATOR ASHFORD: Yes. [LB380 LB485 LB385]

SENATOR DAVIS: Yes. [LB380 LB485 LB385]

SENATOR MCGILL: Go ahead, Jim. [LB380 LB485 LB385]

SENATOR DAVIS: Yes. [LB380 LB485 LB385]

SENATOR ASHFORD: And anybody else who has written...why don't we just stop for a second. Does anybody else have written materials? Okay, why don't we get that distributed and then indicate your... [LB380 LB485 LB385]

SENATOR CHAMBERS: Ms. Testifier, you see now why patience is a virtue. You've been very patient. [LB380 LB485 LB385]

NANCY RUSSELL: Okay. Well, I'm Nancy Russell, R-u-s-s-e-l-l. I am opposed to LB380, LB385. I could accept LB385 with religious exemptions. Most states have settled on religious exemptions in these issues. I'm going to read a little bit from a study that was done in the University of Texas by Mark Regnerus. In an historic study of children raised by homosexual parents, sociologist Mark Regnerus of the University of Texas at Austin has overturned the conventional academic wisdom that such children suffer no disadvantages when compared to children raised by their married mothers and fathers. Just published in the Journal of Social Science Research, the most careful, rigorous, and methodical sound study ever conducted on this issue, found numerous and significant differences between these groups with the outcome for children of homosexuals rated suboptimal, Regnerus' words, in almost every category. This logjam of dueling studies has been broken by the work that Regnerus has undertaken. Unlike the many large studies previously undertaken on family structure, Regnerus has included specific comparisons with children raised by homosexual parents. Unlike the previous studies on children of homosexual parents, he has put together representative, population-based sample that is large enough to draw scientifically and statistically valid conclusions for these reasons. Some previous studies collected data while the subjects were still children living at home with their parents. Their parents are making it impossible to know that the effects of the home environment might be once they reach adulthood. Some such studies even relied, in some cases exclusively, on the self-report of the parent. There's a whole list of things that have happened to the children. I guess the best thing to do, since women can't talk on three bills in three minutes, I guess the best thing to do (laughter) is go to the Web site for the University of Texas, ask for statistics on study of homosexual placements, and you might come up with that. I have given all the senators a copy of this report. You didn't get it today. It might have been

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brought to your office yesterday or the day before. I guess I'm a little appalled that these three of the most important issues before this Legislature this year are jammed into one afternoon. I don't feel that the people, the voice of the people has been heard. I even went to the Clerk's Office to see if this was legal, so I'm sorry that this has happened. [LB380 LB485 LB385]

SENATOR ASHFORD: Well, thank you for your testimony and that will conclude the hearing on these bills. (See also Exhibits 37-59.) [LB380 LB485 LB385]

NANCY RUSSELL: Thank you. [LB380 LB485 LB385]

SENATOR ASHFORD: We'll now go to LB498. Let's wait for people to... [LB498]

SENATOR MCGILL: Are you heading out? [LB498]

SENATOR ASHFORD: I have to. [LB498]

SENATOR MCGILL: Okay, yeah, you have to. [LB498]

SENATOR ASHFORD: I have to. [LB498]

SENATOR MCGILL: Yeah, it's okay. [LB498]

SENATOR ASHFORD: Let's wait for people to (inaudible)... [LB498]

SENATOR MCGILL: Yeah. Yeah, go, Brad. [LB498]

BREAK

SENATOR COASH: Senator Brasch. Excuse me, excuse me. We have two more bills to hear. [LB498]

SENATOR BRASCH: Thank you, Senator Coash. [LB498]

SENATOR MCGILL: Yeah, so if people could please leave,... [LB498]

SENATOR COASH: So we need people to get on out or... [LB498]

SENATOR MCGILL: ...unless, of course, you're here for the other bill. [LB498]

SENATOR COASH: Thank you. [LB498]

SENATOR COASH: You may be done, but we have two more. [LB498]

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SENATOR MCGILL: Senator Brasch. Thank you for your patience, Senator. I'm sure we're starting a little later than you would have expected. [LB498]

SENATOR BRASCH: Thank you. Thank you for staying to listen. I... [LB498]

SENATOR MCGILL: We'll just wait one more minute for a few people to wander out. [LB498]

SENATOR COASH: Senator Brasch. [LB498]

SENATOR BRASCH: Yes. [LB498]

SENATOR COASH: You want to do your bill or your resolution first? Which is first on your list? [LB498]

SENATOR BRASCH: Well, first on my list is the bill. [LB498]

SENATOR COASH: Okay, then, Senator Brasch, you're recognized. [LB498]

SENATOR MCGILL: Are you chairing? [LB498]

SENATOR COASH: He asked me. [LB498]

SENATOR MCGILL: Oh, okay. [LB498]

SENATOR COASH: It's fine. [LB498]

SENATOR MCGILL: That's fine. His staff had asked me earlier, so. [LB498]

SENATOR COASH: Me too. (Laugh) [LB498]

SENATOR MCGILL: But Brad told you to. (Laugh) All right. [LB498]

SENATOR COASH: He...(laugh) Senator Brasch, you are recognized to open on LB498. [LB498]

SENATOR BRASCH: Thank you, Senator Coash, and thank you, members of the Judiciary Committee. I am Lydia Brasch, L-y-d-i-a B-r-a-s-c-h, and I represent the 16th District in the Nebraska Legislature. I am here today to introduce LB498, which I have brought to provide for an additional protection against libel tourism. Libel tourism occurs when a plaintiff shops for a jurisdiction in another country that has few protections for defendants in which a potential plaintiff can file a questionable defamation action. I

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firmly believe that Nebraskans who live here, under the umbrella of the good life, deserve the strongest protections for our First Amendment rights. As I will describe shortly, we live in an increasingly global world where words and cultures can collide in the marketplace of ideas, whether it is in the form of traditional print materials or on-line as social media or blogs. In this era of the Internet, no one is safe from libel tourism. Not even in the heartland, in places like Nebraska, South Dakota, and Oklahoma are we insulated from tort-friendly jurisdictions. A blogger or a journalist's writings are transmitted at the speed of light around the globe. A radio announcer's voice can be heard around the world as it's streamed on-line or recorded as a podcast. A Hollywood producer or director has their films shipped worldwide. They can be sued in a country for defamation without ever having set foot there. Just this week, Iran announced a lawsuit against Hollywood filmmakers who just took home an Oscar for the best picture film Argo. While Hollywood filmmakers may have the means and the resources to put together a powerful legal team to take on the state of Iran, our average Nebraskan who writes a letter to the editor or updates their blog does not have the resources or expertise to defend themselves at the global level. Our First Amendment protections at the state and federal level need to keep up with the changing world in which we live to protect the good life in Nebraska. The threat of frivolous claims filed in overseas courts has a chilling effect on freedom of speech and freedom of press. One particularly notable case involving an author by the name of Rachel Ehrenfeld and a book titled Funding Evil: How Terrorism is Financed and How to Stop It made waves nationally after the author was sued for defamation in England by a Saudi Arabian financier who provided support to al-Qaeda. According to Ehrenfeld v. Bin Mahfouz, Ehrenfeld used...refused. She refused to travel to England to defend herself in court, and I quote, because of the cost of litigating in England, the procedural barriers facing a plaintiff under English law, and her disagreement in principle with the plaintiff's alleged attempt to chill her speech in New York by suing in a claimant-friendly libel jurisdiction to which she lacked any tangible connection. England defamation law takes an unusual step of putting the burden of proof on the defendant, unlike the American standard of presuming the innocence of the accused. The Ehrenfeld case resulted in both state and federal laws to provide much-needed protections for victims of libel tourism. Not all foreign jurisdictions have the same protections provided under the U.S. Constitution, and some jurisdictions, such as the United Kingdom, provide claimant-friendly jurisdictions to propose sometimes-frivolous claims of libel and defamation. This proves especially dangerous for defendants who either do not understand the risk of defending themselves overseas or simply do not have the financial resources to do so. Defendants who do not have expert advice, proper notice, or financial resources may end up surrendering their First Amendment protections by choosing to defend themselves in a foreign jurisdiction with few protections. The state of New York, where Ehrenfeld resided, passed a Libel Tourism (sic--Terrorism) Protection Act in 2008 which extended New York's long-arm statute. According to courts, allowing courts to exercise personal jurisdiction, and I quote, over any person who obtains a judgment in a defamation proceeding outside of the United States against any person who is a resident of New

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York or is amenable to jurisdiction in New York for the purposes of rendering declaratory relief to the fullest extent permitted by the United States Constitution. That's in New York statute now. Since then, additional states have followed suit, including California, Illinois, Utah, Florida, Tennessee, Louisiana and, just last Friday, South Dakota signed a new statute similar to the one that I have introduced today. In 2010, President Obama signed into law the Securing the Protection of our Enduring and Established Constitutional Heritage Act. It's also known as the SPEECH Act, which passed with rare bipartisan support through both houses of Congress. Unfortunately, the federal law does have a loophole which can leave Americans vulnerable. LB498 does not include this exception, contained in the SPEECH Act, under which a defendant can still be found liable. It's in Section (B) of the SPEECH Act that states, and I quote, even if the defamation law applied in the foreign court's jurisdiction (sic--adjudication) did not provide as much protection for freedom of speech and press as the First Amendment to the Constitution of the United States and the constitution and the law of the state, the party opposing recognition or enforcement of that foreign judgment would have been found liable for defamation by a domestic court applying the First Amendment to the Constitution of the United States and the constitution and the law of the state in which the domestic court is located. In its articulation of this loophole, the SPEECH Act does not address how a plaintiff would prove that the libel case would have succeeded in the U.S. court. In fact, in most cases, in the most likely scenario, the plaintiff would submit all of the evidence that was introduced in the foreign court, for example, the transcript of the testimony, any of the exhibits. It's unclear whether the defendant could then object to any of that evidence. Further, it is unfair to the defendant because the defendant may then have to, essentially, put on a defense, either by calling in witnesses at a hearing that would be like a trial or by submitting affidavits. It's unclear which...whether such a defense would have to meet the rules of evidence or a lesser standard of a summary proceeding. It's also unclear whether the defendant would have to do any discovery, such as subpoena documents or take depositions, before putting on their defense. LB498 does not include the loophole in the SPEECH Act, and it also includes important tools that allow the defendant to go on the offense should the court find that the defendant did not receive similar protections provided under the U.S. Constitution. State action is especially important in this area because the Supreme Court has historically acknowledged state law as controlling in diversity of citizenship cases. And according to the American Law Institute restatement of the law, and I quote, the United States Supreme Court's decision in the Erie v. Tompkins established the general principle that, except as to matters governed by the Federal Constitution or by acts of Congress, the federal courts are required in diversity of citizenship cases to apply state law, rather than federal law, in determining issues of substantive law. And the Supreme Court's decision in Klaxon Company v. Stentor established the general principle that, on the basis of Erie v. Tompkins decision, a federal court was required, in a diversity of citizenship case, to follow the conflict-of-laws rules of the state in which the court was sitting. On the basis of these general principles, it has been held in the diversity of citizenship cases decided subsequently to Erie v. Tompkins that state law,

rather than federal law, is controlling in determining whether a valid judgment of a court of a foreign country is entitled to extraterritorial effect in a federal district court. Today, Nebraska has no policy on the books to address libel tourism concerns, so any protection afforded to the defendants would come through inadequate SPEECH Act, described above. It is important to note that it is very difficult to measure the impact of libel tourism, state by state, for a couple of reasons. First, it is very difficult to measure the chilling effect of libel tourism because it is impossible to know how many people curb their own speech due to the potential threat of a suit. Second, it is difficult to track the progress or impact of specific lawsuits where Americans have ended up defending themselves in a foreign court in spite of the risks of financial burdens. And because of the loophole in Section (B) of the SPEECH Act, such instances would be difficult to discover because the proceedings would occur in a foreign district court and would not be reported in standard American legal databases, nor would any foreign opinions regarding those cases cite the SPEECH Act because the SPEECH Act would not apply in a foreign country. Nebraska does have basic libel protections in place that establish the burden of proof for the plaintiff, truth as defense, and provisions for providing corrections. These are contained in Chapter 25, Sections 839, 840, 840.01, and Chapter 20, Section 209. None of these laws touch on how the enforcement of foreign defamation judgment should be handled by the Nebraska courts. For the sake of clarity, I would also like to point out that the Nebraska Uniform Enforcement of Foreign Judgments Act has no bearings on today's discussion. This act, contained in Nebraska Revised Statutes 25-1587.01-09 deals with judgments obtained in courts, and I quote, entitled to the full faith and credit in this state, end quote. In reference to the courts of the other 49 states, additionally, the Nebraska Uniform Enforcement of Foreign Judgments Act only establishes the procedure for enforcing a judgment from another state. And even if it did apply to judgments from foreign countries, which it does not, it does not provide any of the protections of LB498. The act does not reference libel judgments or constitutional rights whatsoever. The act simply does not apply to libel judgments from foreign countries, nor does it provide any protections from them. Another point of clarity: Please note that Nebraska has not passed the Uniform Foreign Money-Judgments Recognition Act, another uniform act which addresses the procedure for enforcing a money judgment from a foreign country. Senator Lathrop had introduced this bill as LB832 in 2008, but the various interested parties did not come to an agreement and the bill was indefinitely postponed. LB498 adds the following provisions to Nebraska's libel statute. Subsection (2) provides conditions under which a foreign defamation judgment is not conclusive. These conditions are modeled after the SPEECH Act, passed by Congress and signed into law by President Obama in 2010. The language is similar to language employed by the Uniform Law Commission and also contained in Senator Lathrop's LB832 from 2008. Subsection (3) provides conditions under which a foreign defamation judgment is not recognized or granted comity. The language is also similar to language employed by the Uniform Law Commission. Subsections (4) and (5) provide key tools for defendants against the enforcement of a foreign defamation judgment. Subsection (4) allows the defendant to

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bring a declaratory judgment action in district court for a declaration, with respect to the liability of such person for the judgment, and to determine whether the foreign defamation judgment should be deemed unenforceable. Subsection (5) allows the defendant to bring an action for injunctive relief against a foreign defamation action under certain conditions. In lay terms, it gives the victim of libel tourism recourse to go on the offensive against frivolous foreign defamation and libel tourism plaintiffs. A declaratory judgment would declare that any judgment issued by the foreign court would not be honored. Such a judgment would allow a defendant to know with confidence that they would not have to travel to a foreign court to defend themselves because the state court has declared a protection that any future judgment from the foreign court would not be enforced without a declaratory judgment from the defendant, would have to stand by while a foreign court ruled against them, and then hope to defeat the judgment later or expend the time and money to defend themselves in a foreign court. The antisuit injunction would order the plaintiff in the foreign court to cease to pursue the litigation in the foreign court. And if the plaintiffs continued to pursue the litigation in the foreign court, the plaintiffs could be held in contempt by the American court. The...and be assessed a fine and either arrested, if they travel to an American state where the court issued the contempt order, or have any property in the American state seized to satisfy the fine. Subsection (6) outlines the boundaries of the court's personal jurisdiction for the purposes of rendering a declaratory judgment or injunctive relief. This extends the state's long-arm statute to give the district court personal jurisdiction over those who institute defamation proceedings outside the United States against Nebraskans or those who own property or hold assets in the state of Nebraska. Critics of the protections against libel tourism...protections have sometimes raised concerns about comity and uniformity of these laws at the state level. This legislation, which has been modeled after the state of New York and South Dakota laws, has been crafted with those concerns in mind and does not go so far as to allow the victim of libel tourism to seek damages against the libel defendant or plaintiff. The New York law, which has not faced a court challenge to date, includes the declaratory judgment provision. South Dakota is the first state to pass legislation that includes the injunctive relief provision which LB498 also includes. The injunctive relief provision is key to helping a defendant avoid the mistake of deciding whether or not to defend the case in a foreign jurisdiction that may not afford them the same protections found under the U.S. Constitution or, as in England's case, may shift the burden of proof onto them, as the defendant. With this in mind I would urge the committee to take action to protect Nebraskans. In my mind, it is not right for the Legislature to wait for a terrible case, like Ehrenfeld case in New York, before enacting strong protections for Nebraskans. All we need is someone like Senator Coash to star in a film in a foreign country that they deem controversial. Senator Colby (Coash) and other Nebraskans deserve the same protections that Ben Affleck has already in California. As I conclude, I want to thank you so much for your time. I know you're weary and your patience to listen to all this legal...and I am not an attorney and...but I do have an attorney behind me that will come up and answer any of your questions that you may have about this legislation. Bob Evnen will speak to that. I

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believe I also have, if he is coming from Omaha, but Mark Christian--he's an Egyptian doctor who now lives in Omaha--behind me, and he wants to share his personal story with you and his belief for the need for additional protections against libel tourism. Again, thank you so much for your time and consideration. [LB498]

SENATOR COASH: Thank you, Senator Brasch, for that thorough introduction. (Laughter) [LB498]

SENATOR BRASCH: Very thorough. (Laugh) [LB498]

SENATOR COASH: Thank you. Let's see if... [LB498]

SENATOR BRASCH: I didn't want you to think I was trying to skim over anything. [LB498]

SENATOR COASH: Let me see if there are any questions from the committee. [LB498]

SENATOR BRASCH: Oh, committee? [LB498]

SENATOR MCGILL: No. [LB498]

SENATOR COASH: Seeing none, we're going to go to Bob. [LB498]

SENATOR BRASCH: Okay. All right, thank you. [LB498]

SENATOR COASH: He's been waiting all day, I'm sure. Welcome, Mr. Evnen. [LB498]

BOB EVNEN: Thank you. My name is Bob Evnen, B-o-b E-v-n-e-n. I am a lawyer in Lincoln. I'm not going to rehearse what you just heard. I do think that it was a comprehensive statement that I did not prepare but, I believe, is comprehensive and is worthy of your reference. In the future, as you continue to consider this, I hope that you will report LB498 out to the floor. I am pleased to note that Senator Coash brightened up when he was favorably compared to Ben Affleck. So this is (laughter)... [LB498]

SENATOR MCGILL: Oh, dear. [LB498]

BOB EVNEN: I take this as a help. [LB498]

SENATOR COASH: The best part of that whole... [LB498]

SENATOR MCGILL: You better stop that...(laugh)...go to his head. [LB498]

BOB EVNEN: I take that as a helpful thing. I would note to you that South Dakota

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became the ninth state to enact a statute of this sort. And last week, last Friday, it was signed into law by the governor of South Dakota. That bill passed the South Dakota Senate unanimously, and it passed the house on a vote of something like 84-6. There...endorsements for this legislation have come from the New York City bar committee, the Association of American Publishers, the Manhattan district attorney, The Authors Guild, the PEN America Center. The New York Times, the Washington Post, the Los Angeles Times have all endorsed this legislation, legislation of this sort. Association of American Publishers, the American Library Association, the American Association of University Professors, the New York City Bar Association, the Writers Guild, the American Booksellers, California First Amendment Coalition, the Anti-Defamation League have all endorsed legislation of this sort. The ACLU has written a paper about legislation like this. The operation of foreign laws should not be permitted to chill the exercise of constitutionally protected rights here in the United States, and that's really what the bottom line is for this law. It's the protection of our First Amendment rights from abuse in foreign jurisdictions where libel laws are much different, where the First Amendment is not recognized, and where judgments can be had against American citizens, against Nebraskan citizens, really, without effective recourse. This affords them protection here in Nebraska against abuses of that sort. And I'll conclude there. Again, hope that you will report LB498 to the floor. And if you have any questions, I'll be happy to take a whack at them. [LB498]

SENATOR COASH: Thank you, Bob. Are you here on behalf of the bar? [LB498]

BOB EVNEN: I am not here on behalf of the bar. [LB498]

SENATOR COASH: Okay, I just wanted to make sure. [LB498]

BOB EVNEN: I am a member of the bar, but I'm not speaking for it. [LB498]

SENATOR COASH: Okay, just wanted to make that clear. Any questions for Mr. Evnen? [LB498]

SENATOR SEILER: I have one. [LB498]

SENATOR COASH: Senator Seiler. [LB498]

SENATOR SEILER: Is this peculiar to Nebraska or is...are all these enacted, especially South Dakota, limited to libel or slander or defamation? [LB498]

BOB EVNEN: Yes, these are all... [LB498]

SENATOR SEILER: That's just that narrow causes of action. [LB498]

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BOB EVNEN: Yes, yes. [LB498]

SENATOR SEILER: Okay, thank you. [LB498]

SENATOR COASH: Thank you, Senator Seiler. Any other questions? [LB498]

SENATOR CHAMBERS: I have one. [LB498]

SENATOR COASH: Senator Chambers. [LB498]

SENATOR CHAMBERS: I'm sorry I wasn't here when you introduced yourself. Are you from Nebraska? [LB498]

BOB EVNEN: I am from Nebraska. I was born in Sioux City, Iowa, and raised in Lincoln from the age of two-and-a-half. And my family has lived in Lincoln for something over 100 years. [LB498]

SENATOR CHAMBERS: So, okay, have you heard of a person named Gerhard Lauck? [LB498]

BOB EVNEN: Yes. [LB498]

SENATOR CHAMBERS: And he was the Nazi, head of the Nazi party here. [LB498]

BOB EVNEN: That was my understanding. [LB498]

SENATOR CHAMBERS: Under the First Amendment, he could say and do everything he was saying, and he didn't violate the law. He went to Germany, where they have a law against advocating things relative to Nazism, and he was found guilty and imprisoned. And the American Embassy never came to defend him because the German law was contrary to the First Amendment of the U.S. Constitution. Was that an inconsistent position for this country to take? [LB498]

BOB EVNEN: I don't know whether it was an inconsistent position for this country to take, Senator, but it is not...it is...there's a material difference between that situation and what this bill seeks to protect. [LB498]

SENATOR CHAMBERS: But it was under the First Amendment. That action could not have even been brought against him in this country. [LB498]

BOB EVNEN: He went to Germany and subjected himself voluntarily to the laws of that country. [LB498]

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SENATOR CHAMBERS: So you can be found to have a presence someplace if something you do winds up in that place. Is that true or false? [LB498]

BOB EVNEN: You lost me. I apologize. [LB498]

SENATOR CHAMBERS: Okay, that's all right. I don't have any more questions. Thank you. [LB498]

BOB EVNEN: Okay. [LB498]

SENATOR COASH: Thank you, Senator Chambers. Any other questions for Bob? Seeing none, do you have a doctor here that you wanted to bring? [LB498]

_____ : (Inaudible) [LB498]

VICKI HAHN: I'm going to... [LB498]

_____ : Oh, you're going to (inaudible)... [LB498]

_____ : He left his statement for me (inaudible)... [LB498]

SENATOR COASH: Okay. [LB498]

_____ : (Inaudible) [LB498]

_____ : ...(inaudible) about picking up a child from school. [LB498]

SENATOR COASH: Sure, okay. Come on up. [LB498]

VICKI HAHN: This is a first for me, so bear with me. Dr. Mark Christian had to leave. He didn't...we didn't...had no idea it was going to take this long and he had to go pick up his son. He's on his way back here, but it looks like he's not here quite yet. He asked me to read his statement, if that's all right. [LB498]

SENATOR COASH: That would be fine. We can... [LB498]

VICKI HAHN: (Exhibit 60) My name is Vicki, V-i-c-k-i. Last name is Hahn, H-a-h-n. So I'm reading this as if I were him. My name is Dr. Mark Christian. I was born and raised in Cairo, Egypt, as a devout Muslim. I was mentored by the Muslim Brotherhood and Islamic leaders at a very high level. While in medical school, I started preparing myself to also become an imam, which is a religious leader, like my father. As I studied the history of Muhammad, I started asking questions. This is not allowed in Islam, but I kept asking. I was soon cut off from my family and physically threatened. Leaving Islam is

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against the law. I eventually came to America, and I love the freedom this country gives me. I can be a Methodist, a Catholic, or an atheist, without fear of harm. In Egypt, however, the laws are different. My father has filed many lawsuits against me. I cannot go and defend myself because I would be killed as soon as I got off the plane. He has won legal custody of my son in Egypt. He has frozen all of my assets, blocked my educational documents from being transferred, and he had my medical clinic destroyed, all because I left Islam. I now have religious asylum in the United States and am applying for my citizenship. I am also in the process of writing a book about my life. I am sure my father and members of the Muslim Brotherhood will not be happy about this book and will do everything they can to have me stopped. As an American, I know I will have the freedom to write this book, but I am fearful about having to fight lawsuits. I have no money. But I have a story that must be told. I am looking to you, our government leaders, to help protect my right to tell this story. Thank you. [LB498]

SENATOR COASH: Thank you. Senator Chambers. [LB498]

SENATOR CHAMBERS: Who wrote that letter? [LB498]

VICKI HAHN: Mark Christian, Dr. Christian. [LB498]

SENATOR CHAMBERS: Who is he? [LB498]

VICKI HAHN: He is a gentleman from Omaha who, like I said, he is writing a book about his story. [LB498]

SENATOR CHAMBERS: Well, why is he not here to give his statement? [LB498]

VICKI HAHN: Because he was here earlier, but we didn't realize this...it was...that we were going to be here all day. So he drove back to Omaha to pick up his son and he is on his way back here now. [LB498]

SENATOR CHAMBERS: Well, what they usually do is not let somebody else read a person's statement because, based on the nature of a hearing, we don't know that the statement is what you purport it to be. And that's no slam against you, but this is a formal hearing. So the statement will be taken for what it's worth, which is something that a person purported was written by somebody else. But since you did read it, what does this bill have to do with him writing a book? He can write any book he wants to, wherever he wants to write it. [LB498]

VICKI HAHN: That is true. But he is concerned about the lawsuits that will result as a result of him writing this book. [LB498]

SENATOR CHAMBERS: Well, how would this bill help him? [LB498]

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VICKI HAHN: I would defer to Mr. Evnen on that. [LB498]

SENATOR CHAMBERS: Oh, you don't have to do that. I don't... [LB498]

VICKI HAHN: I'm not an attorney. [LB498]

SENATOR CHAMBERS: I don't understand it. Okay, thank you. [LB498]

VICKI HAHN: Um-hum. [LB498]

SENATOR COASH: Thank you. And if you want, you can give the letter, and we can have copies disseminated to the committee. [LB498]

VICKI HAHN: Okay, I'll do that. [LB498]

SENATOR COASH: Is anyone else here in support of LB498? Seeing none, is anyone here to testify in opposition of LB498? Seeing none, anyone here in a neutral capacity? Senator Brasch, we'll let you... [LB498]

SENATOR BRASCH: I think I'll waive closing (inaudible)... [LB498]

SENATOR COASH: Okay. [LB498]

SENATOR BRASCH: ...and we can go to the next one (inaudible)... [LB498]

SENATOR COASH: Okay. [LB498]

SENATOR BRASCH: And if the gentleman...he's made two trips now, he was here, can he at least talk after committee? [LB498]

SENATOR COASH: If we're still around and we're available, I'm sure... [LB498]

SENATOR BRASCH: All right. [LB498]

SENATOR COASH: I'm sure we'll make ourselves available. We will now move on to LR42. Senator Brasch, we'll let you open on that. [LB498]

SENATOR BRASCH: Thank you, Chairman Coash, and good evening, members of the Judiciary Committee. I am Lydia Brasch, L-y-d-i-a B-r-a-s-c-h, and I represent the 16th District in the Nebraska Legislature. I am here today to introduce LR42 which recognizes the right of parents to direct the upbringing and education of their children and urges the Congress of the United States to pass the Parental Rights Amendment to

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the constitution and submit it to the states for ratification. I introduced LR42 because I believe strongly that trends in federal policymaking and court decisions do cause some uncertainty over the significance of the term "parental rights" within family law. Right now, about 95 percent of family law is promulgated at the state level in the U.S., and it is important for us to keep it there so that our Nebraska families have control over policies that impact how members within families relate to one another and how parents raise their children. Today's hearings show that this subject area is an area of policy that Nebraskans are very concerned about. Nebraska has played a role in the history of parental rights, beginning with the U.S. Supreme Court case of Meyer v. Nebraska, which held that the Fourteenth Amendment, and I quote, denotes the right of the individual to marry, establish a home, and bring up children, end quote. Federal courts have continued to elaborate on the extent of these rights since the Meyer case in 1923, but precedent in recent years has become unclear on whether parental rights should be upheld as a fundamental right. And I will keep this introduction short. (Laugh) But...I know. I just want to...I do want to highlight two main concerns in the resolution and that its first...courts at the federal...that federal-level courts have moved away from the precedent of the U.S. Supreme Court case, Wisconsin v. Yoder, which articulated the right of parents referenced in the Meyer case, saying that it is...that this primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition. In 2000, in the U.S. Supreme Court Troxel v. Granville, the court's justices issued five concurring and dissenting opinions on the enforceability of parental rights. And in 2007, the First Circuit ruled that social workers did not violate the U.S. Constitution as long as they made, I quote, a plausible decision before removing a child from the home. In 2005, the Ninth Circuit ruled that a psychological survey of students about the values and attitudes of children and their parents is a reasonable state action and there could be no opt-out of anything in the curriculum, even with parental consent. Second, the United Nations Convention on the Right of the Child, also known as the CRC, would truly, drastically alter the fundamental right of parents to direct the upbringing of their children. While this treaty has not been ratified by the U.S. Senate, it was signed by then-Secretary of State Madeleine Albright in 1995. The treaty has also be cited as a customary international law by the U.S. Supreme Court, which looked to widespread acceptance of the CRC in the 2005 case of Roper v. Simmons. The case dealt with whether the juvenile death penalty was cruel and unusual punishment. Instead of confining its discussion to American law and legal principles, the court looked to foreign laws and customs, concluding that the United States was, and I quote, the only country in the world that continues to give official sanction to juvenile death penalty. The court stopped short of saying that international law controlled the case but, instead, found that customs of international community provided respected and significant confirmation for our own conclusions. Regardless of what one thinks about the Roper case, what is concerning about the Conventions on the Rights of the Child is the underlying philosophy of the treaty and its impact on Nebraska law. First, according to the Regent Journal of Law, the CRC allows government to override parental decisions on the best interest of the child without proof of abuse, neglect, or

harm. Second, under the CRC, children have legally enforceable rights to complain about parent decisionmaking in every area of their life, including religious and educational decisions. Both of these principles represent a dramatic shift away from most family law promulgated at the state level which give parents authority to direct the upbringing of their children without government interference unless abuse or neglect occurs. While some countries selectively enforce the CRC, it's unclear whether the same opt-out provisions which function similarly in the United States...Article 27 of the Vienna Convention of the Law of Treaties says a party may not invoke provisions of international law to perform a treaty. While some of the countries have placed reservations on the law to the CRC, it is difficult to say how any reservations that the United States would place on their signature would interact with the constitution which declares treaties as the supreme law of the land. The Parental Rights Amendment to the federal constitution is contained there in LR42, and it would ensure that parental rights should be upheld as a fundamental right and that international treaties ultimately will not trump state laws. It's important to note that Section 3 of the proposed amendment sets a limit on the applicability of the amendment. Any parental action or decision that would end life must look outside this article for legal defense. Before I close--and I'm going to close here--I just want to make sure and clarify that passing this amendment to the constitution will not federalize family law. The amendment contained in LR42 would codify the legal standard of review of parental rights for both federal and for our state courts through the incorporation doctrine. It would deauthorize the Senate and President from adopting any treaty that would override parental rights. The proposed amendment passes no power to the U.S. Congress. A majority of states already uphold both a fundamental and parental right and strict scrutiny protection of that right so that the incorporation of our amendment will have, essentially, no impact on legal practice and legislation in those states. It will merely codify what they are already doing. And from my understanding, Nebraska is in this majority. One final note that, in putting the parental rights into the constitution, it does not give the federal government authority to make laws on the matter. There's no phrase granting power to Congress to legislate. Many recent amendments to the constitution on other subjects include the line, Congress shall have no power to enforce this article by appropriate legislation. Such a phrase would federalize parental rights. Without it, the amendment does not. And I would never support the addition of this phrase. As I conclude, I want to thank you again for your patience, your time, and understanding. And it is my hope that the committee will advance this resolution so that the full Legislature can have a conversation about the importance of keeping family law at state level. Several other states have already passed similar resolutions, several with overwhelming bipartisan support. And I hope that Nebraska will be next. Leroy Becker is here today to present a letter of support from the Parental Rights Organization and, I believe, possibly, there are others behind me today. I'm not going to give names anymore because of the hour, don't know if they're still here. [LR42]

SENATOR COASH: We don't know. We'll see who comes up. [LR42]

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SENATOR BRASCH: All right. And I'd be happy to answer questions the committee may have. [LR42]

SENATOR COASH: Any questions for Senator Brasch? Senator Chambers. [LR42]

SENATOR BRASCH: Yes, Senator Chambers. [LR42]

SENATOR CHAMBERS: Senator, who asked you to introduce this resolution? [LR42]

SENATOR BRASCH: A constituent of mine; actually, more. [LR42]

SENATOR CHAMBERS: A who? [LR42]

SENATOR BRASCH: Several constituents of our district, and then others have come forward and... [LR42]

SENATOR CHAMBERS: You said a constituent asked you to introduce? [LR42]

SENATOR BRASCH: Constituent, and they're here today also. [LR42]

SENATOR CHAMBERS: There's an organization behind this, isn't there? [LR42]

SENATOR BRASCH: This is a constituent. [LR42]

SENATOR CHAMBERS: It's a what? [LR42]

SENATOR BRASCH: And there is an organization, but that's not who I'm representing. I am... [LR42]

SENATOR CHAMBERS: Did they...who drafted the language? [LR42]

SENATOR BRASCH: For the amendment? [LR42]

SENATOR CHAMBERS: For this that you introduced. Who drafted LR42CA (sic)? [LR42]

SENATOR BRASCH: Okay, it's drafted very similar to what many other states have already adopted. I think it went to our Bill Drafting and... [LR42]

SENATOR CHAMBERS: Well, they draft whatever you give them. [LR42]

SENATOR BRASCH: Right. [LR42]

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SENATOR CHAMBERS: So somebody gave the Bill Drafter a copy of one of those other state actions and... [LR42]

SENATOR BRASCH: And in many other states...it's simply saying that we're...Congress is...okay, all right. [LR42]

SENATOR CHAMBERS: I can see what it says, but I want to know the origin of it. [LR42]

SENATOR BRASCH: I'm not working with any organization. I'm working with my constituents. [LR42]

SENATOR CHAMBERS: Well, but somebody is behind this. But anyway, that's all I'll ask you. Thank you. [LR42]

SENATOR BRASCH: Okay. All right. Okay. No, my constituents are here today. They can stand up and wave. They're behind me. They... [LR42]

SENATOR CHAMBERS: No, I don't want them doing that. [LR42]

SENATOR BRASCH: Okay. [LR42]

SENATOR CHAMBERS: No, that's not the way we... [LR42]

SENATOR BRASCH: They came very early and didn't...they said they'd stay until midnight if they needed to, and so... [LR42]

SENATOR COASH: All right, well, we'll give them a chance to come up if they want to. [LR42]

SENATOR BRASCH: Okay, all right. [LR42]

SENATOR COASH: Any other questions for Senator Brasch? [LR42]

SENATOR BRASCH: Any other questions? [LR42]

SENATOR COASH: Seeing none, we'll start with the proponents. Senator Chambers, just for clarification, it's not a CA. [LR42]

SENATOR CHAMBERS: What did he say? [LR42]

SENATOR MCGILL: It's not a CA, so it's not a... [LR42]

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STACEY CONROY: It's not a constitutional amendment. [LR42]

SENATOR MCGILL: It's not... [LR42]

STACEY CONROY: So maybe that's why they don't do a green copy. [LR42]

SENATOR MCGILL: Yeah. [LR42]

SENATOR CHAMBERS: Okay. [LR42]

SENATOR COASH: We'll go to the first proponent. Come on up. Welcome. Welcome. [LR42]

DAVID LOSTROH: (Exhibit 61) Thank you. Senator Coash, members of the Judiciary Committee, my name is David Lostroh, D-a-v-i-d L-o-s-t-r-o-h. I'm a board member and legislative liaison for the Nebraska Christian Home Educators Association. I'm here to urge you to pass LR42 on to the full senate (sic). LR42 would urge Congress to pass the Parental Rights Amendment so that it could go out for ratification by the states. Thirty-two senators have already shown support for the PRA in this Legislature. And why do we need the PRA? Section 1, parental rights, currently recognizes implied rights, parental rights would be implied, as it is now, under the Tenth Amendment, will become specifically enumerated in the text of the constitution. This will reduce confusion by courts in spite of U.S. Supreme Court recognition of the fundamental nature of parental rights in past times. Section 2, while parental rights do not include a right to commit child abuse or neglect, they are due the same high legal protection as other fundamental rights. The amendment would also not apply in cases where a parent's action or a decision would end life. And neither the Senator treaty power nor the courts can subject parental rights to international law under Section 4. And again, this is...goes to the United Nations Convention on the Rights of the Child and other similar kinds of treaties that are coming out of the United Nations. The UNCRC is a very alarming treaty that has the potential to undermine parental rights in the United States in many major ways. We do not want the United States to become a country where our historical parental rights are shattered by the United Nations using the U.S. federal government as its enforcement mechanism. I urge you to take a look at some of the things that...how things would change, on the two columns at the bottom of the first page of testimony. The United Nations Convention on the Rights of the Child would be handled as a treaty. And according to the United States Constitution, Article VI, Section 2, all treaties end up being supreme law of the land, and the judges in every state shall be bound thereby. And ultimately, all treaties are superior to all state laws and state constitutions to the extent that the provisions of the state law are in conflict with the rules contained in the treaty. So we trump state law. Unlike many countries, the United States Constitution requires our government to take treaties seriously. So I don't think it

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would be halfhearted. It would be fully done. And Article 3 of the UNCRC is the best interest of the child, which is the standard used in this country now when a family is dysfunctional. And where there's abuse, neglect, or divorce, something where the family cannot handle what's going on, then it goes to the courts, using the best-interest-of-the-child standard. But otherwise, it is not like that. In any case, skipping to the end, these types of treaties must not override our historical view of parental rights to bring up children. Child-rearing views of those who crafted the UNCRC and those few in government who ratify treaties must not be allowed to force a nation to adopt their personal child-rearing view. This is coercion and government excess. It's caused by many people from other nations to come to the United States to get away from this kind of thing. [LR42]

SENATOR COASH: All right, thank you. [LR42]

DAVID LOSTROH: So I would urge you to pass LR42 on. [LR42]

SENATOR COASH: Okay, thank you, David. Any questions for Mr. Lostroh? Seeing none, thanks for your testimony and thank you for your materials, as well. Take the next proponent. Come on up, Al. [LR42]

AL RISKOWSKI: Thank you. Al Riskowski, it's R-i-s-k-o-w-s-k-i, representing Nebraska Family Council and Family First, just, simply, wanting to go on the record that we are in support, in principle, of LR42. We have an intention of writing something more of, more technically, why we like what this is. But in reading it, we certainly, in principle, are for the rights of parents for their children. I just simply wanted to come forward and state that for our organizations, not to take a great deal of time. [LR42]

SENATOR COASH: Thank you, Al. Any questions for Al? No. [LR42]

AL RISKOWSKI: Okay, thank you. [LR42]

SENATOR COASH: Seeing none, thank you, we'll take the next proponent. Come on up. Welcome. [LR42]

LEROY BECKER: Thank you. You need some paper, right? Here you go, and I may have another form to give you later on. Can I submit that at a later moment? [LR42]

PAGE: Yeah, after your... [LR42]

LEROY BECKER: Because I only have one copy of it here. [LR42]

SENATOR COASH: We can make copies. [LR42]

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PAGE: Yeah, I can make you a copy. [LR42]

LEROY BECKER: Okay. [LR42]

SENATOR COASH: Welcome. [LR42]

LEROY BECKER: (Exhibits 62 and 63) Thank you. This is also my first time here, before this committee, but I have been here...my first time to testify. I have sat in other committees. I've been here on some agricultural issues, just listening. My name is Leroy Becker. I live near Elgin, Nebraska. I'm a small farmer in Antelope County. I'm a retired dairyman. Many years ago, I earned a degree in agronomy here from the university. I'm a second-generation American. My grandparents came to Nebraska in the late 1800s. I might add, I'm not quite as sharp as I was at 5:00 this morning, so if you can bear with me. I'm a state coordinator for parental rights. And, Senator Chambers, to answer your question, yes, there is a national organization. I'm the state coordinator for it, parentalrights.org. When passing LR42, Nebraska will join its neighbors. Wyoming passed a resolution last year. South Dakota passed a resolution three years ago. Several states have passed or are working on various things involving parental rights. I'm here to try to speak for parents. That's parents throughout Nebraska. Parental rights is also about children and family security. But this is also about one other thing, and that is about the state of Nebraska retaining its jurisdiction on family law. And nearly all family law is state law. It's about the senators of this committee and the senators in this Legislature protecting the jurisdiction of the state of Nebraska. I don't say that lightly. I believe the senators in Nebraska have a duty to protect that jurisdiction. I do have a letter here from the national committee. We have, at this state, 2,392 signatures, people who have signed in support of our organization's effort in Nebraska. Polling shows that 90 percent of Americans agree with the traditional rights of parents. I've got a yellow light here. I hope you can bear with me. International law poses a threat to parental rights and the power of the Nebraska Legislature to pass law regarding children and family. Nebraska has the potential of losing its jurisdiction on family law and it shifting to the federal government. This is explained with a rather...technicality here. We have an analysis here of [Reid v. Covert](#). I'm not an attorney. I was expecting Dave (phonetic) to be here. He had to leave. If you bear with me...I see I'm out of time here. Shall I stop or shall I continue? [LR42]

SENATOR COASH: If you'd like, we can have the page make some copies of that testimony and we'll put it as part of the record. [LR42]

LEROY BECKER: Okay. [LR42]

SENATOR COASH: And if you have a final thought, we'll be glad to hear it. [LR42]

LEROY BECKER: One final thought is that President Truman, when he was president,

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years ago--and I remember him; I was pretty young; I'm 70--he said that, if we are not alert, the only rights we will end up with will belong to the state. And traditionally, what we've had is this fence with families on one side, parents on one side, state on the other. It was a high hurdle for the state to go over. That fence is being lowered. If these treaties are adopted, that fence will be gone. And Geraldine Van Bueren is a professor at the University of London, one of the drafters of the CRC, a strong advocate of it. She said, best interests provides decision- and policymakers with the authority to substitute their own decisions for either the child's or the parent's. [LR42]

SENATOR COASH: Okay, thank you, Mr. Becker. If...we'll get some copies of that. We appreciate your testimony. [LR42]

LEROY BECKER: And two sides of it here. [LR42]

SENATOR COASH: We'll see if we have any questions from the committee. I see none. Thanks for coming all the way down from Elgin, being here all day. [LR42]

LEROY BECKER: Okay, thank you. Like I said, I was a little sharper when I rolled out at 5:00 this morning. [LR42]

SENATOR COASH: You were pretty sharp. We appreciate it. [LR42]

LEROY BECKER: Thank you. [LR42]

SENATOR COASH: Thank you. We'll take the next proponent. Is anyone here, anyone else here in support? Come on up. Welcome. [LR42]

KEITH POBANZ: Thank you. Keith Pobanz, K-e-i-t-h P-o-b-a-n-z. And I'm a homeschool parent. I had no intention of testifying. But I feel very strongly that I want us, as parents, to be able to, you know, have in our law that we have the right to raise our kids the way we see fit. And, you know, we're...we've been involved with three different homeschool associations out near Grand Island. And there's a lot of the people, especially in the homeschool movement, that feel the same way. [LR42]

SENATOR COASH: Thank you very much. We'll see if we have any questions. I don't see any. Thanks for coming this way. We'll take the next testifier in support. Okay, seeing none, is there anyone here to testify in opposition? Seeing none, is there anyone here in a neutral capacity? Seeing none, Senator Brasch, bring us home. [LR42]

SENATOR BRASCH: Very short, short, short. One of the constituents that I mentioned, Randy Wattermann, may have filled out a green sheet. He has livestock, had to head back up to West Point. Another, Ed Hernandez, asked if he could just sign in and not testify. And to answer your question, Senator Chambers, I visited with my legislative

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aide to confirm. He said that we used many resources on drafting the bill, and we're not specifically... [LR42]

SENATOR CHAMBERS: That's all right. It's not that important. [LR42]

SENATOR BRASCH: Okay, all right. Well, just...and I did have two constituents and others that had asked if I would bring this. So thank you, again, and I really would like to encourage you to pass this resolution. We had 31 cosigners. It's gone through many other states. Appreciate it and thank you, and luck of the Irish to you. (Laugh) No, I think that's... [LR42]

SENATOR MCGILL: All right. [LR42]

SENATOR COASH: Thank you, Senator Brasch. [LR42]

SENATOR BRASCH: Thanks. [LR42]

SENATOR MCGILL: Thank you. [LR42]

SENATOR COASH: That will close the hearings for today. (See also Exhibits 64-76.) [LR42]