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Judiciary Committee
January 27, 2016

[LB937 LB943 LB944 LR389CA]

The Committee on Judiciary met at 1:30 p.m. on Wednesday, January 27, 2016, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB937, LB943, LB944, and LR389CA. Senators present: Les Seiler, Chairperson; Ernie Chambers; Laura Ebke; Bob Krist; Adam Morfeld; Patty Pansing Brooks; and Matt Williams. Senators absent: Colby Coash, Vice Chairperson.

SENATOR SEILER: So we will start this out. You're in front of the Judiciary Committee, in case you're in the wrong room. My name is Les Seiler. I represent District 33, which is all of Adams, the west half and the south half of Hall County, and I'm the Chairperson of this committee. At my far right is Senator Williams from Gothenburg; Senator Bob Krist from Omaha; our legal counsel, Josh Henningsen. On my left is Senator Ebke from Crete and Senator Pansing Brooks from Lincoln. And our clerk is Oliver VanDervoort. But the real people that work here and do a lot of the heavy lifting, they're our pages, and that's Annie and Kaylee, so. We will be...turn off your cell phones. We will be taking up the LBs in the order in which they're posted. And please pick up, if you're going to testify, make sure you get a testifier's slip for each one of the bills you're going to testify on and submit that to one of the pages when you come to testify. These are new mikes and they're very sensitive. So if you're sitting in the back row and want to say something slanderous, you'll probably be on the record, so be careful about that. They pick up quite a distance. And then when you testify, speak clearly into the microphone. We will be using the clocks, the lights, and three minutes per testifier. When the red comes on, stop. If you've got something that the committee wants to hear, any one of the committee members can ask you to go ahead and continue. I think we're ready, Senator Ebke, LB937. [LB937]

SENATOR EBKE: (Exhibit 1) Thank you, Senator Seiler and fellow members of the Judiciary Committee. For the record, my name is Senator Laura Ebke, L-a-u-r-a E-b-k-e, and I represent the 32nd Legislative District. LB937 is part of a group of several bills that I've introduced. This is the only one I think that comes before the Judiciary Committee. But we're trying to clean up some outdated, unneeded language in statute. LB937 removes the state marriage licensing requirement that testing for venereal disease must be completed before a license can be obtained. The law is not being enforced. The state should not disallow marriage based on health conditions citizens would like to otherwise keep private. Historically this goes back at least into the '40s when their primary concern was syphilis and avoiding the danger to children as a result of marriage between two people who one of whom might have had syphilis. And that has been changed in practice now because now pregnant women are now tested for syphilis before the child is born. The change comes on line 5 and 6 of Section 1 of Section 42-102. "No person who is afflicted with a venereal disease shall marry in this state" would simply be stricken from statute and I think this is a wise change. I think you will have found, if it hasn't been around yet,

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a letter from the ACLU in support, as well as some information about the right to marry. If you have any questions, I'd be happy to answer them. [LB937]

SENATOR SEILER: Any questions? Seeing none, thank you. Proponent of this statute. Seeing nobody moving, opponents. Neutral, anybody in the neutral? Senator Ebke, you may close. She waives. We're on to the next bill. The next bill is LB943. Senator Hansen, you're on deck. [LB937]

SENATOR HANSEN: Thank you, Chairman Seiler, and good afternoon, members of the Judiciary Committee. My name is State Senator Matt Hansen, and for the record that's M-a-t-t H-a-n-s-e-n, and I represent District 26 in northeast Lincoln. I'm here today to introduce LB943. The intent behind LB943 and its companion bill, LB944, which we'll discuss later, is intended to update and clarify Nebraska statutes following the U.S. Supreme (Court) decision in Obergefell v. Hodges which legalized same-sex marriage across the country. This bill deals primarily with issues related to marriage and the terms "husband" and "wife." LB943 and LB944 are the result of recommendations from the Bill Drafters Office when asked what changes were needed to clarify statutes. These updates should reflect how a court would now interpret the law. Enacting these bills should allow us to avoid any issues that would be handled in the courts later at taxpayers' expense. As a practical matter and in the spirit of my Chairmanship of Enrollment and Review, I believe our statutes should be clear and concise and that a plain reading of the law should reveal its meaning, and that is what I am attempting to accomplish here. Now I will address some changes in the bill. Most are not substantive, in both mine and Bill Drafters' opinions, so I will not belabor those points, but I will address a few sections that may be substantial or complex. Section 5 of my bill amends Section 25-305, which currently states that a married woman can sue and sue in her own name. This is one of several sections relating to the issue of coverture in our common law, as married women were not allowed to sue until expressly allowed by statute. This statute was adopted in 1871 and has been rarely changed since then. The committee could deal with some of these coverture issues by either leaving them alone, changing them as proposed, or repealing the sections outright. I would be happy to work with the committee and legal counsel on these issues but wanted to raise it in front of the committee. Section 8 of this bill amends Section 25-505. This is the spousal privilege rule as the Nebraska evidence rules. This is not inherently substantial, but, being as a criminal procedure, I wanted to raise it as an issue. Section 15 of the bill amends 30-2303. This is a component of the Uniform Probate Code that allows for inheritance by grandparents that outlive the deceased. Currently this section uses the terms "paternal" and "maternal" grandparents, which in the case of a child of a same-sex couple it is unclear toward whom those terms would apply. This bill replaces those terms with the word "grandparents." This is not necessarily substantial, but it is an issue relating to a uniform code, so again I wanted to raise it to the committee's attention. Section 29 of the bill amends 42-201. This is another section related to coverture. This section currently provides that whatever property a woman brings into a marriage remains her property and she can't be liable

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for her husband's debts. Since this section currently treats women and men differently, removing this disparate treatment element may constitute a substantial change. In a similar vein, Sections 30, 33, and 35 remove disparate treatment that currently favors a married woman with, again, the same question of whether or not that is a substantial change. Again, I would be happy to work with the committee and legal counsel to address these issues. With that I would urge the committee to advance LB943 to General File so that we can clarify and update our statutes to reflect the current state of Nebraska law. With that, I'd be happy to answer any questions. [LB943]

SENATOR SEILER: Senator Krist. [LB943]

SENATOR KRIST: Senator Hansen...thank you, Chair. Senator Hansen, we have a process in place in the Revisor's Office that every year they bring down some Revisor's bills that will harmonize terms of art and law because of laws that have been passed. I don't see a reason for this bill. I mean the Revisor's Office should come down with a Revisor bill that says this is in direct conflict with a law that has been passed and, therefore, if it's nonsubstantive...if it's substantial, I see a reason to bring it to the committee. If it is merely changing it to harmonize with statutes as we've changed, then I think the Revisor's Office has an obligation to change them for us at the beginning of the next session, as they normally do. Would you like to comment on that? [LB943]

SENATOR HANSEN: Certainly. I guess I would comment with my...some unfamiliarity with the exact duties of the Revisor's Office. I do think some of these sections, that obviously could be left alone for as long as it takes Revisor's (Office) to get there. I, in part, wanted to raise the issues in all of these sections to realize that there are perhaps some complexities that may need to be resolved or have some legislative intent to be shown, frankly, rather quickly. I mean, if I would say...I'm thinking of the example of the spousal evidence rule and then in our criminal procedure it currently is very explicit that a husband cannot testify against a wife nor a wife against a husband. If I am a prosecutor in a tough case involving a same-sex couple, I might argue that that doesn't apply and the next thing you know, whether it's win or lose, either defense or prosecution is appealing and the next thing we know we have a...you know, the Supreme Court needs to weigh into the matter. So that's why I would certainly want to raise it in front of the Judiciary Committee. [LB943]

SENATOR KRIST: Well, I'd invite you to visit the Revisor's Office and ask them how they change laws and bring everything up to speed at the beginning of a session based upon what has been changed in law. That is the purpose of the process. And anything that is substantive then would have to be brought to our attention. So again, I don't...if this is changing...I understand your example, okay. Husband and wife is replaced with spouse? Okay. If our current law says

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spouse is male-female, female-female, male-male, and that's the way our statutes are written, then a Revisor's change can clear this up without bringing a piece of legislation forward. But just thought I'd let you...give you an opportunity to respond to that. [LB943]

SENATOR HANSEN: Thank you, Senator, appreciate it. [LB943]

SENATOR KRIST: Thank you, Chair. [LB943]

SENATOR SEILER: Any other questions? I have one. You use the term "unremarried surviving spouse" in place of "widow" and "widower." Do you have a definition of that somewhere? I couldn't find it. [LB943]

SENATOR HANSEN: In which section are you at? [LB943]

SENATOR SEILER: It's throughout...I'm on page 58 and 59, but it's throughout the sections and it continues to use "unremarried surviving spouse" in place of...and you're striking "widow" and "widower" and I'm wondering if you've got a definition of "surviving spouse" somewhere. [LB943]

SENATOR HANSEN: I do not necessarily know. I do know "surviving spouse" is a more gender-neutral term of "widow" or "widower" and so I would assume the definition is kind of inherent in its plain meaning. But we can clarify that, certainly. [LB943]

SENATOR SEILER: Okay, there's not a definition in your bill then? [LB943]

SENATOR HANSEN: Not that I know of at the moment. [LB943]

SENATOR SEILER: Okay, I couldn't find one. Any other questions? Thank you. [LB943]

SENATOR HANSEN: Thank you. [LB943]

SENATOR SEILER: You'll be here to close? [LB943]

SENATOR HANSEN: Yes. [LB943]

SENATOR SEILER: Okay. Proponent of this bill, LB943. [LB943]

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SPIKE EICKHOLT: (Exhibit 1) Good afternoon, Chairman Seiler, members of the committee. My name is Spike Eickholt, first name S-p-i-k-e, last name E-i-c-k-h-o-l-t, appearing on behalf of the ACLU of Nebraska, testifying in support of both this bill and the bill to follow. Both of these bills, both LB943 and LB944, accommodate, if you will, the Obergefell v. Hodges decision, decided about six months ago by the U.S. Supreme Court. This bill particularly addresses terminology in the statutes relating to husbands and wives, largely replacing the terms with gender-neutral terms. Obergefell v. Hodges recognizes, Senator Hansen explained, the fundamental right to marry and how same-sex couples are entitled to be married to one another and states are required to recognize that relationship. This bill should be passed and the next bill should be passed for essentially two reasons. Number one, this bill recognizes the principles of fairness and equality that were articulated by the U.S. Supreme Court. But perhaps more basically, as Senator Hansen explained, the law ought to reflect, the statutes ought to reflect what the law is. Accommodating this bill, writing, passing this bill will provide that a citizen or a constituent or a person can read the statutes and know that this in and of itself describes what the law is. In other words, a person shouldn't have to look at a statute and then go look at a case that's referenced following the statute or go look at some sort of administrative order interpreting that statute. Statutes ought to reflect what the law actually is and what the law actually does. I think it's consistent, and Senator Krist sort of asked about this, it is consistent with some of the efforts that the Revisor's Office has done, and it's consistent with what Senator Ebke is doing today with the bill that we just heard a little bit earlier, and that is there is an effort to replace terms when the Revisor's Office typically will send out bills and amendments that use gender-neutral terms or terms of art, such as "surviving spouse," when you're dealing with the probate code, instead of "widow" and "widowers." Those are terms that are used a little because they more accurately reflect what these things do. But to kind of answer Senator Krist's questions, why did this not come from the Revisor's Office perhaps, why do we need to do this bill, for one, the example that Senator Hansen gave is very good. If you have the rules of evidence, 27-505 as a spousal privilege, as written, that prohibits a husband testifying against a wife and vice versa. You could have a scenario where a party tries to call a wife to testify against another wife. Now the court will likely interpret that to mean, consistent with Obergefell, as not being allowed, but why allow these things to be decided on a case-by-case, ad hoc basis? And if a court strikes down a statute, like the bill that Senator Ebke introduced earlier--I know we're testifying on this bill--a court likely had invalidated that in another jurisdiction, prohibiting somebody with venereal disease from being married for a variety of different reasons. But that statutory language still stays on the books. And I don't really know how the Revisor's Office drafts these things. If it's because it's too controversial, perhaps, or perhaps it seems too substantive or it affects an area of the law that is too substantive, then maybe it doesn't come under a Revisor's bill. But I think it's entirely consistent, both with Obergefell and Senator Hansen's intent, for this committee to advance this bill. [LB943]

SENATOR SEILER: Senator Krist. [LB943]

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SENATOR KRIST: Thanks for coming, Spike. Don't get me wrong, I think these changes need to be made. But in order for a term-limited environment that we're in to understand what the process does,... [LB943]

SPIKE EICKHOLT: Right. [LB943]

SENATOR KRIST: ...a Revisor's bill simply says, here's a point of law, here is a bill that was passed, here's a federal mandate, we need to go back and look at those things. And they have, because we spent a lot of money on it, a find-and-replace in all the statutes. Every "him" and "her" change to "spouse" with regards to this, they can do that. I'm not arguing that it needs to be done and I'm agreeing with the circumstance or the situation that both you and Senator Hansen have brought to us. But we don't have to do this. We can simply say, put it on your schedule, Ms. Pepperl, and make sure that this Revisor's bill goes forward. I'm looking at this bill and I just don't see a substantive argument of why we have to have a separate bill rather than a Revisor's bill. And part of that is understanding the process, I understand. So again, on the record, I'm not disagreeing with the changes that need to be made to comply with the federal law and with the case and the Supreme Court ruling; I'm simply saying this is the wrong vehicle. [LB943]

SPIKE EICKHOLT: The only response I'd have to that is that the U.S. Supreme Court spoke on this six months ago. Before I came over here this morning, I looked on-line on Lancaster County's Web site to see what a marriage license has for terminology, and they use the neutral terms. They use Applicant 1 and Applicant 2. I don't know if they developed that in response to Obergefell or if they saw it coming, did it already. So to answer your question, perhaps, why do this now, the agencies are going to have to comply with Obergefell; in other words, not passing this bill is not going to undo or correct or change anything the Supreme Court said. The state is going to have to accommodate it either administratively or the local governments are on the local level. And consistent with that, we believe the Legislature should enact this bill and the next one too. [LB943]

SENATOR KRIST: So can I have a follow-up? So I'm looking at the chronology involved with this. It will be faster to put a Revisor's bill in at the beginning of the year and here's why. Unless Senator Hansen is going to prioritize this bill and put an "e" clause on it, nothing is going to take effect for at least six to eight months afterwards. The difference between that and when we come back for a Revisor's bill, at the end, or we could actually ask Revisor's bill and do a suspension of the rules and bring it in now, we're talking process versus intent. And I understand the intent and I agree with the intent on the record. I just don't think that there's a reason for the bill. Thank you. [LB943]

SENATOR CHAMBERS: Just a comment. [LB943]

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SENATOR SEILER: Yes, Senator Chambers. [LB943]

SENATOR CHAMBERS: I officiated weddings and some staff members wanted to be married before the Supreme Court's Opinion, male and female, but I always from the beginning would say, I now pronounce you spouses. I never said husband and wife, ever, and I never liked that terminology anyway. And before that they would say man and wife, which would indicate the man is still free to do whatever he wanted to do but the woman is now in the status of a wife or a possession of the man. So the more neutral all these terms can be, for more than just that Supreme Court decision, I think the better. So whether it's the methodology being pursued through these bills or what Senator Krist is recommending, we're going to get to that point one way or the other, and the quicker the better, in my opinion. So I will talk to Senator Krist and we will explore. But again, he's not saying don't do what you're doing. [LB943]

SENATOR KRIST: Thank you. [LB943]

SENATOR SEILER: Any further questions? Thank you for your testimony. Further proponent. Further proponent. [LB943]

ELLEN HANSEN: Good afternoon, Chairman Seiler, members of the committee. My name is Ellen Hansen, E-l-l-e-n H-a-n-s-e-n. I am known in the community as "Elle," which would be E-l-l-e. I appear today to ask the committee to support this bill. I am a member of the LGBTQ-plus community here in Nebraska and, as such, I believe that it's far past time that we update our terminology in our laws. Antiquated terminology, such as pointed out by Mr. Eickholt, lends itself to a culture that I don't want to be a part of, such as Senator Chambers mentioned, husband and wife. You know, when we think of humans as property, we evolve into problems such as we see, like that is occurring through human trafficking. I'm concerned that if we wait too long...I don't know what the time process is for the solution that you've suggested, Senator Krist. My concern is that if we wait too long, that it may get pushed to the next legislative session and I don't think that that would be a respectful thing to do or a morally accurate thing to do. A very dear friend of mine here in Lincoln, also another member of the LGBT community, wrote a song about equal rights for all people, and this is a state that values equality under the law, this is a bill that reflects equality under the law. Part of the song lyrics are: Our wedding rings mean the same as yours. And I am just going to ask the committee to vote for it and to give the Legislature an opportunity to evaluate what is correct to do. I thank you for your thoughts and I thank everyone else who has given their time and invested their time to be here today, including Senator Hansen. Thank you. [LB943]

SENATOR SEILER: Any questions? Seeing none, thank you for your testimony. [LB943]

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ELLEN HANSEN: Thank you. [LB943]

SENATOR SEILER: Any further proponent of this bill? Seeing nobody moving, opponents of this bill. [LB943]

COURTNEY PHILLIPS: Good afternoon, Senator Seiler and members of the Judiciary Committee. I'm Courtney Phillips and I serve as the CEO for the Department of Health and Human Services. And it's a pleasure to be in front of you today. This is my first time in front of the Judiciary Committee, so it's my pleasure. I'm here on behalf of LB944, which amends a variety of statutes relating to... [LB943]

SENATOR SEILER: Oops, LB944 is the next bill (laughter). [LB943]

COURTNEY PHILLIPS: That's what happens when you come in late. [LB943]

SENATOR KRIST: Never mind. [LB943]

COURTNEY PHILLIPS: Well, at least you know what I'm here for. [LB943]

SENATOR SEILER: We'll strike that part of the record (laugh). Any further opponents? [LB943]

NATE GRASZ: (Exhibit 2) Good afternoon. It is a privilege to appear before Chairman Seiler and the members of the Judiciary Committee today. My name is Nate Grasz, N-a-t-e G-r-a-s-z. I'm the policy analyst for the Nebraska Family Alliance and do represent them in my testimony. We are opposed to this piece of legislation. While the bill states that it will update references with respect to husband and wife, what it's really doing is deleting references to husband and wife and man and woman from our state marriage laws and statutes. Words matter and the language we use in our laws certainly have value. We wouldn't be discussing this if they didn't. So do we now have to devalue the union of a husband and a wife to the point that we will no longer recognize it in our state laws and statutes? We believe that it would be a disservice to the citizens of Nebraska to tell the hundreds of thousands of men and women who are married in this state and want to be a husband or a wife that our state laws and statutes will no longer recognize or use the terms "husband" and "wife" and "man" and "woman" because you can only be just a spouse or a married person and not a husband or a wife. Is this the type of reasoning that we're prepared to adopt, removing "husband" and "wife" and "man" and "woman" because they are discriminatory or not practical? Using the term "husband and wife" is not discrimination, and the simple fact remains that the vast, vast majority of marriages are between one man and one

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woman. The reality is that over 98 percent of marriages are between one man and one woman. We should not discriminate against the 98 percent for the few instances where marriage does not include one man and one woman. If someone wants to identify as a spouse or a married person and not a husband or a wife, that's their right, and that could simply be amended into the statutes. But people also have the right to be recognized as a husband and a wife, man and woman, and the state should acknowledge that fact. This is why we propose that the existing language simply be amended to add "spouse" or "married person" without completely eliminating the terms "husband" and "wife" and "man" and "woman." Thank you. [LB943]

SENATOR SEILER: Any questions? Senator Chambers. [LB943]

SENATOR CHAMBERS: When you said amend it, I don't understand what you meant. How did you say it should be amended if it's going to be amended? [LB943]

NATE GRASZ: Well, if the committee decides that the language does need to be changed or update the references, we propose that the language be updated to add "spouse" or "married person" without completely eliminating the terms "husband" and "wife" and "man" and "woman." [LB943]

SENATOR CHAMBERS: So you would say husband and wife or spouse or married persons, put all that in it? [LB943]

NATE GRASZ: Correct, um-hum. [LB943]

SENATOR CHAMBERS: Well, when a Supreme Court decision comes down, the law should reflect what that decision was. And the discrimination comes if you require people who are of the same sex to adopt the language of those who are not. So the Supreme Court decision makes it clear the way it ought to be done. And I don't think your view and how you all feel personally has been disregarded, disrespected. You can, if you're married to a woman, you can say, we're husband and wife, or however way you want to characterize yourself. But the term should be one that applies across the board to any two people who enter the marriage relationship, and "husband and wife" does not do that. And the Supreme Court said that all of these relationships that are termed "marriage," and the marriage exists when according to the state's laws this ceremony is gone through, then they are spouses, not husband and wife. And I'm not saying that you're wrong, that somebody else is right. But we have to do what is appropriate according to the law. And this is not a theocracy, it is a democracy. And people can follow their religious predilections, their views, and refer to each other and themselves in any way that they please, but the law has to be what it is. When that constitutional amendment was put in the Nebraska Constitution, it did discriminate, and the Supreme Court said that shall be no more. And that's

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the purpose of this law, not to disparage people who want to say they're husband and wife, because they can still do that. They don't even have to go through a marriage ceremony if they don't want to, but there is no legal recognition of that. So when I perform this marriage, I have to have the authority under the state to be in a position to do that. So whatever terminology I use, whatever "abracadabra" I use, once that ceremony has been completed and I pronounce them spouses, in their mind they can say, well, we're husband and wife. What seals it is that particular activity, that ceremony, so at that point in time you can say the people did what was necessary to create a legally recognized relationship from which pulp flows legal responsibilities, duties, and rights. For example...well, I don't want to go on and on. But let me give you one other example that might make it clearer. When a person is going to testify, the constitution requires that the words to make that oath binding is to say "swear" or "affirm." Everywhere in the U.S. Constitution where an oath is required, people think the oath means you have to say/invoke God. No, they recognized that there were people who did not acknowledge God, so that's what the term "affirm" means. You swear or affirm. It's put to you. When we're sworn in as legislators, the Chief Justice say, do you swear or affirm? Then each person says what it is. When I get a document and fill it out, like a run for office, and it says "swear," I cross out "swear" and write "affirm." So when a person takes that oath, that oath does not mean that somebody is going to tell the truth because they swear or affirm to do so; it means that a formal presentation was made to you to call your attention to the fact that this is a serious thing that you're doing and if you don't tell the truth you make yourself amenable to a charge of perjury. It's not that that oath is going to make you tell the truth at all; it just lets you know that from this point on, if you don't tell the truth, then you're subject to a criminal sanction. So these words can be "abracadabra," but when the Supreme Court speaks, that's it. And you all had your way when you got the constitution to say that only between a man and a woman was a marriage recognized. Well, you got to play by the rules. You went by the rule that existed then, you lost, and that's all there is to it. [LB943]

NATE GRASZ: Well, thank you for your comment. Obviously we're on different sides of the issue. We're going to oppose any effort that attempts to sanitize our legal system of the words "husband" and "wife" and we don't feel that, in light of the ruling on gay marriage, that it's necessary to completely eliminate the terms "husband" and "wife." [LB943]

SENATOR CHAMBERS: I'm clear on what you're saying. I'm not saying I don't understand what you're saying. [LB943]

NATE GRASZ: Thank you. [LB943]

SENATOR SEILER: Any further questions? Thank you very much for your testimony. [LB943]

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NATE GRASZ: Thank you. [LB943]

SENATOR SEILER: Any further opponents of LB943? Anybody in the neutral on LB943? You may proceed. [LB943]

BUB WINDLE: Chairman Seiler, members of the committee, my name is Bub Windle; that's spelled B-u-b W-i-n-d-l-e, and I'm here on behalf of the Nebraska State Bar Association, just here to highlight that our members have reviewed and are reviewing some provisions and, in particular, the provision that Senator Hansen actually referenced, Section 15, related to intestate succession and ensuring that these changes to clarify the law do not alter how an estate would be distributed under the law. It actually has less to do with the gender neutrality piece but just distributing the estate half and half instead of equally. So we're taking a look at that. We've spoken to Senator Hansen and his office and are working to draft an amendment to clarify that point, and we would look forward to working with Senator Hansen and the committee to work on that amendment if needed. [LB943]

SENATOR SEILER: Any further questions? Senator Pansing Brooks. [LB943]

SENATOR PANSING BROOKS: Can you just explain to me what the issue is with intestate succession? [LB943]

BUB WINDLE: Yes. So this arises, it's Section 15 of the bill, and this arises if only a grandparent is left. So there is no...there are no kids, kin, parents. And the probate section provides for the assets to go to the surviving grandparents and currently it is set up to go one half to the maternal grandparents and one half to the paternal grandparents. And the bill strikes "paternal" and "maternal" and describes going to the grandparents equally, which would work in some circumstances but not all, and so where you would have a half-and-half under the previous...under the current law. But I guess the example would be is if you have two surviving grandparents on one side and one surviving grandparent on the other side. Under the current law it would still be half and half, and so half would go to the two and half would go to the one surviving. If it's distributed equally to all surviving grandparents, you would actually have two-thirds and one-third. [LB943]

SENATOR PANSING BROOKS: Yes, but isn't that generally stated within the will? Well, this is intestate, so... [LB943]

BUB WINDLE: Yeah. [LB943]

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SENATOR SEILER: Intestate. [LB943]

BUB WINDLE: So this is just here, so... [LB943]

SENATOR PANSING BROOKS: So under intestate though, it would go half and half by the lineage branch. [LB943]

BUB WINDLE: Yes, and so working to describe kind of the two sets of grandparents without reference... [LB943]

SENATOR PANSING BROOKS: But isn't that...what would happen if it said...if...I don't think it would change if it said maternal grandparents and there were two on this side and one on that side, paternal and paternal. How is that going to change by the use of that word? That doesn't make sense to me. [LB943]

BUB WINDLE: I think it would be accounting for situations where there are paternal and paternal grandparents, where there are not maternal grandparents. [LB943]

SENATOR PANSING BROOKS: It still doesn't make sense, so that's fine. We can keep discussing. [LB943]

SENATOR SEILER: Any further questions? Seeing none, thank you. Any further testimony? Matt, you may close. [LB943]

SENATOR HANSEN: Thank you, Chairman Seiler and members of the committee. I just wanted to...I've been sitting in the back of the room, listening to the testimony, and thinking about Senator Krist's question. I just wanted to say I would absolutely...meant no...I absolutely respect the institution of the Legislature and if there's a process to work through Revisor of Statutes to accomplish this task and that would maybe be more efficient or more expedient or the correct way of doing so, I would be happy to do that and work with Senator Krist's office, as well as any concerns, including those addressed by the bar association. I agree that the situation is confusing, specifically we're getting into the area of where someone has...well, in that situation I think the testifier did a good job of explaining it would be in situations with two sets of paternal grandparents where one set had only one surviving grandparent, give you both an odd number of grandparents and different diversions. And that maybe is language I would be happy to work on and clarify. [LB943]

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SENATOR SEILER: (Exhibits 3 and 4) Okay. Any questions? Seeing none, there is a letter of support by NASW and a letter of opposition by the Nebraska Catholic Conference. They will be made part of the record. Nothing further on LB943. Senator Hansen, you may open on LB944. [LB943]

SENATOR HANSEN: Yes. Thank you, Chairman Seiler and members of the committee. For the record, my name is State Senator Matt Hansen, M-a-t-t H-a-n-s-e-n, representing District 26. I'm introducing LB944. I intend LB944 to be a companion bill to the bill we just discussed to update our statutes. This deals specifically with issues related to parents and parentage. And the reason for the two bills, if I didn't explain earlier, was this was an original distinction that Bill Drafters had made when (inaudible) through the statutes and throughout the process. They remain two bills and for simplicity's sake I thought the issues were related but different enough that they might warrant different records. I will address some of the changes to the bill. Again, most are not substantial in my opinion, as well as Bill Drafters', so again not going into too much depth on those points. There are a few sections that are substantial or complex. Section 1 amends Section 28-702 to expand the scope of incestuous marriages to include possible same-sex marriages between extended family members. Because this definition is in our criminal chapter, I would inherently call the change substantial but feel it was in line with the scope and purpose of the bill. Section 2 amends 30-2608, which is a portion of the Uniform Probate Code defining natural parents. Since this is a uniform act, I wanted to highlight it for the record, as well as the word "natural" has been stricken before "parent" in this section, as "parent" is, as it could be interpreted, that natural could be construed as biological. And it was Bill Drafters' opinion that parents who should be included...parents who adopt, adoptive parents, should be included in this section, thus the changes that also strike the word "natural." And then there's Section 23, which amends Section 71-640.01, dealing with birth certificates. This section has been changed to try and take care of situation involving same-sex couples. It does involve a substantial change from the current statutes as it allows for situations perhaps involving surrogacy. However, it is my understanding that the section we are now codifying is how DHHS is currently changing their procedures. It is also the section that was represented in the original fiscal note, but after talking with the Legislative Fiscal Office it is my understanding that an updated fiscal note will be distributed soon, if not already, showing no fiscal impact as we understand DHHS has already promised to implement similar changes. Finally, I will note that this bill does not impact the Indian Child Welfare Act. While Bill Drafters did identify some language that could use clarification in that act, they also noted it's a unique situation with additional federal implications. That's certainly an issue I would be happy to sponsor further investigation of and simply wanted to put in the record. With that, I would urge the committee to advance LB944 and be happy to answer any questions. [LB944]

SENATOR SEILER: Questions? Seeing none, you'll be here for closing? [LB944]

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SENATOR HANSEN: Yes. [LB944]

SENATOR SEILER: Okay. [LB944]

SENATOR HANSEN: Thank you. [LB944]

SENATOR SEILER: Proponents of LB944. [LB944]

SPIKE EICKHOLT: (Exhibit 1) Good afternoon, Chairman Seiler, members of the committee. Spike Eickholt, first name S-p-i-k-e, last name E-i-c-k-h-o-l-t, appearing on behalf of ACLU of Nebraska as their registered lobbyist testifying in support of LB944. A copy of my statement is being distributed, so I'm not going to restate that. We support this bill for the same reasons that we supported LB943 that was already heard. I know from talking to Senator Hansen in his office before the hearing on this bill that there are some concerns from Health and Human Services, and I saw Director Phillips come up here. We are, to the extent that we can offer any assistance, we would be happy to work with this committee, with Health and Human Services, to accommodate the purposes of this bill, as well as what Senator Krist suggested, perhaps working with the Revisor's Office and doing this in a different form. But for the same reasons that we already explained in LB943, in response to the Obergefell decision, we would urge this committee to advance this bill. [LB944]

SENATOR SEILER: Any questions? Thank you for your testimony. Further proponent. Further proponent. [LB944]

ELLEN HANSEN: Ellen Hansen, E-l-l-e-n H-a-n-s-e-n, known in the community as "Elle" Hansen, E-l-l-e. Good afternoon, Chairman, members of the committee. Once again, I support this bill for the same reasons that I support LB943. Additionally, part of my story that many are not privy to is the fact that I am a former foster child, and I am fortunate enough today that I've been able to pass on the amazing gifts that were given to me throughout my tenure as a foster child many years ago. And I provide care for children now who are wards of the state through my employment. And additionally, I know of many different families that have parents that are either the same gender or otherwise part of the LGBTQ-plus community. I would just ask that for their benefit in the wonderful homes that they do have, that you provide the Legislature a chance to amend this law to benefit the youngest and some of our most vulnerable citizens in Nebraska. That's all I have. Thank you. [LB944]

SENATOR SEILER: Any questions? Thank you for your testimony. [LB944]

ELLEN HANSEN: Thank you. [LB944]

SENATOR SEILER: Further proponent. Opposition. [LB944]

COURTNEY PHILLIPS: (Exhibits 2 and 3) All right. So good afternoon again, Senator Seiler, members of the committee. I'm Courtney Phillips and I serve as the CEO for the Department of Health and Human Services and I'm here on behalf of LB944. LB944 amends a variety of statutes relating to parents and marital relationships. The department respectfully opposes this bill because it creates uncertainties and may have unintended consequences for children and families. Section 23 of the bill makes significant changes to Nebraska Revised Statute 71-640 regarding who would be deemed eligible legal parents for a child born in Nebraska. LB944 allows the biological mother to complete an affidavit attesting she is not the parent and the biological father to complete an affidavit attesting he is the father and his spouse to do the affidavit that the father's spouse is the other parent. This amounts to relinquishment of parental rights by the biological mother and establishment of paternal rights for someone unrelated to the child without the protections of the current relinquishment and adoption statutes. It would also effectively legalize surrogacy, which is currently not recognized in the state. Nebraska Revised Statutes make surrogate parenthood contracts void, and that's Nebraska Revised Statute 25-21,200. Excluding the biological mother from the original birth certificate potentially prevents some collection of demographic and medical information concerning the pregnancy and of the newborn which is currently required by the Centers for Disease Control and Prevention National Center for Health Statistics standards. This information is essential for state, local, and national vital statistics related to birth outcomes. Without maternal information and related data, the birth record is less valuable for research and studying health policy. If the state is unable to provide accurate and full reporting to this entity, there is a risk for noncompliance as well as a risk for loss of funding for the vital records program, particularly the birth outcome section. Further, enhancements would be required to our electronic registration system to accommodate this change. The statute also requires the completion of a medical history for a child when it is adopted and reported to DHHS, and this current bill does not have that similar provision. It's also important to have a record of the biological mother for the children involved in the child welfare system and the juvenile court system. For instance, Nebraska Revised Statute 43-1311 requires notice to parents of biological siblings of a child removed from his or her home. The definition of a sibling under the federal and state law includes children of a parent who relinquished parental rights to the removed child or whose parental rights were terminated. Just to go back and to address the fiscal note, I know it was explained that in terms of the department, that we already started that process in terms of the amended birth certificate, and we have started that process and we're actually in testing phase. But the cost is not in terms of the current birth certificate that we have done. The cost would be related in terms of this new attestation and the removal of the birth mother from that certificate, which would then require some additional changes to the current process that we've already undergone. And so these are additional costs

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outside of the cost that we've already incurred for those changes. And so at this time I'm happy to answer any questions the committee members may have. [LB944]

SENATOR SEILER: Seeing none, thank you. [LB944]

SENATOR MORFELD: Senator. [LB944]

SENATOR SEILER: Oops. Excuse me. Senator Morfeld. [LB944]

SENATOR MORFELD: Thank you for coming today, Courtney. Just out of curiosity, did you relay these concerns to the senator beforehand? [LB944]

COURTNEY PHILLIPS: We just talked to the senator's staff this afternoon. [LB944]

SENATOR MORFELD: Okay. In the future I just...you know, I know as a senator sometimes there is concerns that can be addressed via committee amendment. And as a courtesy, be sure to get to us with whatever concerns that you may have at least a few days beforehand so we can draft an amendment or maybe we can just agree to disagree. But this may or may not be that case in the future. [LB944]

COURTNEY PHILLIPS: Okay. We'll definitely take that under advisement. [LB944]

SENATOR MORFELD: Thank you. [LB944]

COURTNEY PHILLIPS: And we do try to reach out to as many senators as possible with all the bills going on, so understood, duly noted. [LB944]

SENATOR MORFELD: I know you guys keep busy. [LB944]

COURTNEY PHILLIPS: Duly noted. [LB944]

SENATOR MORFELD: And I appreciate it and you guys have been very good about responding to my requests sometimes, too, so thank you. [LB944]

COURTNEY PHILLIPS: Don't say that too loud, Senator (laughter). [LB944]

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SENATOR SEILER: I do have a question. There was a new fiscal note prepared on January 26. Does the cost you were talking about reflect that \$50,000? [LB944]

COURTNEY PHILLIPS: Yes, that's correct. [LB944]

SENATOR SEILER: Or is that in addition? [LB944]

COURTNEY PHILLIPS: But I think there was a new fiscal note that the LFO was working on in terms of the attestation that I signed in terms of relationship to the work that we've done on the current birth certificate. And I think it was the assumption that that birth certificate work that we've done would allude that cost and that was that cost. [LB944]

SENATOR SEILER: Okay. [LB944]

COURTNEY PHILLIPS: But what I'm explaining today though, that is not the same cost. The Section 23 that allows for the attestation would require that we actually make additional amendments to the new version that we've just gone through. [LB944]

SENATOR SEILER: We'll make your new update part of the record. [LB944]

COURTNEY PHILLIPS: Okay. [LB944]

SENATOR SEILER: Yes, Senator Pansing Brooks. [LB944]

SENATOR PANSING BROOKS: Thank you for coming, Director Phillips. Just for the record, I wanted to say I had the opportunity to be with Director Phillips at a seminar for a long hearing and it was amazing the amount of work that she is doing on the state's behalf. I wanted to at least point that out that the efforts that she was going to at that time and her staff, who was answering her texts at 11:00 p.m. at night, were pretty amazing to me because there were a number of major issues going on. So I want to thank you for coming to this state and for your efforts. [LB944]

COURTNEY PHILLIPS: Thank you. [LB944]

SENATOR PANSING BROOKS: I haven't followed exactly what everything is that you're doing, but I do know that you have your heart into working hard on our benefit, on our behalf. And that being said, too, I'm sort of surprised that you're here but...because you do have staff that have testified before, so it's interesting to me that you did come for this specific bill. [LB944]

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COURTNEY PHILLIPS: So I'm also serving as the interim public health director also, so that's...so I have two hats on. And so typically our public health director would have probably testified on this bill. [LB944]

SENATOR PANSING BROOKS: Oh, okay. [LB944]

COURTNEY PHILLIPS: And since I'm serving in that capacity right now, you get me. [LB944]

SENATOR PANSING BROOKS: Okay, well, thank you for your service to our state. I appreciate it. [LB944]

COURTNEY PHILLIPS: Thank you, Senator Pansing Brooks. [LB944]

SENATOR SEILER: Senator Chambers. [LB944]

SENATOR CHAMBERS: Ms. Phillips. [LB944]

COURTNEY PHILLIPS: Yes, Senator. [LB944]

SENATOR CHAMBERS: Just a comment about the surrogacy issue, I wanted to ban the practice because there was a period when that was very popular, high profile. Maybe it's just as popular now but not as high profile. And I studied it as it went along and sometimes the one called a surrogate, she's not a surrogate mother, she's the mother. [LB944]

COURTNEY PHILLIPS: Um-hum. [LB944]

SENATOR CHAMBERS: But at any rate, she would decide that she didn't want to give the child up. Then on the other hand, when the child was born, the woman for whom she was supposed to be the surrogate didn't want the child because of whatever the reason was. So I wanted to ban the practice altogether. There was a senator, and he's now a lobbyist, who said that he knew a family where one sister was going to serve in that capacity for her sister, so is there anything I could do short of making it a crime or an offense to do this activity? I said, well, then none of these contracts are going to be valid from the beginning. There can be no contract. Whatever they sign, it means nothing, and that way neither one can go to court to compel the other to do what no longer is desired, because when it comes to a child it's more than what we're going to do with a piece of land or a piece of property, because you could get another piece of property that looks like that or another piece of land. But when it's a child, it's different. So that's in the law now

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because I had gone as far toward eradicating that practice as I could. And I know that you're not saying one way or the other about it, but it is an issue that does need to be given consideration since things like that do happen. [LB944]

COURTNEY PHILLIPS: Well, thank you for giving me the historical piece of that. [LB944]

SENATOR CHAMBERS: Well, I'm history. [LB944]

COURTNEY PHILLIPS: I know. [LB944]

SENATOR CHAMBERS: I mean from the standpoint... [LB944]

COURTNEY PHILLIPS: I know. [LB944]

SENATOR CHAMBERS: From the standpoint of being old, that's what I mean. [LB944]

COURTNEY PHILLIPS: No, no. [LB944]

SENATOR SEILER: Any further questions? Thank you, Ms. Phillips. [LB944]

COURTNEY PHILLIPS: Thank you, Senator. [LB944]

SENATOR SEILER: Any further opposition? [LB944]

GREG SCHLEPPENBACH: Good afternoon, Chairman Seiler and members of the Judiciary Committee. My name is Greg Schleppenbach; it's G-r-e-g S-c-h-l-e-p-p-e-n-b-a-c-h, and I'm testifying as executive director of the Nebraska Catholic Conference, which represents the collective interests and concerns of the Archdiocese of Omaha, the Diocese of Lincoln, and the Diocese of Grand Island. The Nebraska Catholic Conference urges you to oppose LB944. We recognize that the bill makes a variety of changes, some of which seem to be warranted to reflect cultural and legal developments over the decades since the provisions were enacted. However, the statement of intent indicates that the bill's purpose is to update and clarify the statutes with regards to parentage and marital relationships following the Supreme Court's decision in Obergefell v. Hodges. But in fact, the bill, as it's been acknowledged, contains some changes that are more substantive and potentially impact the rights of children and biological parents. As a fundamental matter, the deletion of references to "mother" and "father" in favor of gender-neutral "parent," even if not making a difference legally, undermines and even denies the very real

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differences and complementarity of a mother and father and the critical role that both should play in a child's development. We also think Section 23 is of particular concern. This section would distort reality by allowing two persons of the same sex, who cannot both be the biological parents of the child, to be listed as the parents on the birth certificate as a matter of presumption. This denies the child's possible interest in identifying biological parents, including for purposes of genetic health information, and potentially denies at least one biological parent's right to be so acknowledged without having to engage in court action. This illustrates well the error of Obergefell, denying that marriage is a natural institution that unites a mother and father and any children that may come from their union. This proposed change shows one potential negative consequence of Obergefell. This and other provisions in LB944 indicate that the changes proposed here are not simply administrative or technical updates. They could have negative consequences for citizens of Nebraska and for these reasons we urge you to reject the bill and at least allow more time for public debate about the proposed changes and their implications. Thank you. [LB944]

SENATOR SEILER: Questions? Questions? Seeing none, thank you for your testimony. Further opposition. [LB944]

NATE GRASZ: Thank you, Chairman Seiler and members of the committee. My name is Nate Grasz, N-a-t-e G-r-a-s-z, and I represent the Nebraska Family Alliance in my testimony. We are opposed to LB944 for primarily the same reasons provided in my previous testimony on LB943. We believe there is simply no reason to cleanse state laws and statutes regarding parentage of the terminology "father" and "mother," especially when the existing language could simply be amended by adding "parent" or "legal guardian" without completely removing "father" and "mother." Every child has a biological mother and father and we ask that you carefully consider the consequences of removing "mother" and "father" from state laws. Thank you. [LB944]

SENATOR SEILER: Yes, Senator Krist. [LB944]

SENATOR KRIST: Just in terms of your comment, are you proposing that if it's biological we can still use the words "mother" and "father," but, if it is a matter of adoption or surrogacy or whatever it might be, that those words need to be removed? [LB944]

NATE GRASZ: We don't think any words need to be removed. We don't think there's any...it's unnecessary to remove "mother" and "father." [LB944]

SENATOR KRIST: Not even in terms of biological? [LB944]

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NATE GRASZ: No, if...I was just stating that every child does have a biological mother and father. [LB944]

SENATOR KRIST: Okay, I got it. I understand. Thank you. [LB944]

NATE GRASZ: Thank you. [LB944]

SENATOR KRIST: Thanks for the clarification. [LB944]

SENATOR SEILER: Any further? Senator Chambers. [LB944]

SENATOR CHAMBERS: How do you identify the father where the baby is a test-tube baby? You just put a question mark? [LB944]

NATE GRASZ: I don't know the answer to that question, but again, we will oppose any legislation that attempts to cleanse our state laws of "mother" and "father." [LB944]

SENATOR CHAMBERS: But there is not always a person that can be identified as the father every time a child is born. [LB944]

NATE GRASZ: That doesn't necessarily... [LB944]

SENATOR CHAMBERS: Isn't that true? [LB944]

NATE GRASZ: That doesn't necessarily mean that we should then remove "mother" and "father" from our state laws. [LB944]

SENATOR CHAMBERS: Are you aware of any creatures in nature who have...who give birth without the agency of a father being involved? [LB944]

NATE GRASZ: I am not. [LB944]

SENATOR CHAMBERS: Read your biology. I just threw that out for the interest, not to argue the point one way or the other. But there are critters that don't. I don't know why. In fact, very recently there was a...it was either an ordinary python, a Burmese python, or a reticulated python which for three years had no contact with a male whatsoever and gave birth and had done so

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several years in succession and the scientists cannot explain it. So there are things...what did you say your first name is, if you don't mind? [LB944]

NATE GRASZ: Nate. [LB944]

SENATOR CHAMBERS: Nate? [LB944]

NATE GRASZ: Yes, sir. [LB944]

SENATOR CHAMBERS: There are things, Nate, that there are things in heaven and earth, Nate, that are not dreamed of in your philosophy--I was paraphrasing Shakespeare--... [LB944]

NATE GRASZ: Well, thank you for your comment. [LB944]

SENATOR CHAMBERS: ...mine either. Okay, that's all that I have. [LB944]

SENATOR SEILER: Any further questions? Thank you for your testimony. [LB944]

NATE GRASZ: Thank you. [LB944]

SENATOR SEILER: Any further opposition? Seeing none, anybody in the neutral? Anybody in the neutral on LB944? Seeing none, Nate...Senator Hansen, you may close. [LB944]

SENATOR HANSEN: Thank you, Chairman Seiler and members of the committee. Again, I'd be happy to work with this bill and the previous bill with any groups, as well as the committee and committee counsel, as to what we think is appropriate policy for the state of Nebraska. I do realize that Section 23, and in fact I have my original drafter from Bill Drafters warning me that it may be controversial; however, I do think these are issues in which the discussion needs to happen, as well as how specifically the issue of birth certificates is perhaps something we're going to look at more in the future. And if that is something we do or do not want to accomplish with that bill, I'd be open to that. And with... [LB944]

SENATOR SEILER: Any further questions? Thank you. Oops. [LB944]

SENATOR MORFELD: Just a quick comment, thank you for introducing these bills, and this is the least controversial thing I think we've seen in my second year here. [LB944]

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SENATOR KRIST: As evidenced by three bills in now two hours, yes. [LB944]

SENATOR SEILER: Well, we could set a record. [LB944]

SENATOR KRIST: We could. [LB944]

SENATOR SEILER: Thank you. [LB944]

SENATOR KRIST: If Harr doesn't mess it up, we'll set a record. [LB944]

SENATOR SEILER: Thank you, Senator Hansen. [LB944]

SENATOR HANSEN: Thank you, Chairman. [LB944]

SENATOR SEILER: (Exhibit 4) There is a support letter from NASW and we will also include the additional updated fiscal note that we just received as part of the record. That will close the testimony on LB944. Senator Burke Harr, you may proceed to introduce your legislative resolution. [LB944]

SENATOR HARR: Thank you, Chairman Seiler, members of the Judiciary. My name is Burke Harr, H-a-r-r, and I am from Legislative District 8 representing your legal counsel. I am here on a constitutional amendment, LR389CA. On June 26, as you have heard, of last year, the Supreme Court ruled that marriage is a fundamental right for same-sex couples by both the due process clause and the equal protection clause of the Fourteenth Amendment of the U.S. Constitution. LR389CA would place on the ballot removal of the provision of the Nebraska State Constitution which by virtue of preemption by the U.S. Constitution is now moot and unenforceable. Now, you may ask yourself, if it's moot and unenforceable, why the heck are you bringing it, Burke? It's not controversial as Senator Morfeld would say. Well, the reason is, number one, we as state-elected officials and all state and city officials are required to take an oath of office that says I shall uphold the U.S. Constitution and the state constitution. Well, we have a state constitution that's in conflict with the U.S. Constitution. Granted, that is now moot, but it's still there. And so all I'm doing is...as we like to say, this is merely a cleanup bill, noncontroversial, I hope it comes out on consent calendar, although it is a constitutional amendment, it will go to a vote of the people. But all we are doing is making, again, our state constitution consistent with the law of the land that's already been ruled by our U.S. Supreme Court. With that, I would entertain any questions you may have. [LR389CA]

SENATOR SEILER: Senator Chambers. [LR389CA]

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SENATOR CHAMBERS: As backward, as bigoted as Nebraskans are, to make a point, they would vote no so that it wouldn't be taken out of the constitution. And they would say, my conscience prevents me from removing something that I believe should stay there. So here's the question. If the public votes no then it stays there, right? [LR389CA]

SENATOR HARR: It would stay there but it would still remain as unenforceable today as it would be that day. [LR389CA]

SENATOR CHAMBERS: And I have a bill that is designed to produce what is called an official... [LR389CA]

SENATOR HARR: Yes. [LR389CA]

SENATOR CHAMBERS: ...constitution. It cannot change the language of the constitution. So you're right, that language would still be there, but there would be a certified notation...and I'm saying it in very simple terms to make the point... [LR389CA]

SENATOR HARR: Yes, I have read your bill. [LR389CA]

SENATOR CHAMBERS: ...that this a nullity, so anything that had been stricken down by the U.S. Supreme Court, the Nebraska Supreme Court, or another federal court where it is binding and wipes out something in the Nebraska Constitution, a notation would be made. What you're trying to do can only be done in the way you're doing it. The constitutional...the text of the constitution can be changed only through a vote of the people, or if you have a constitutional convention and rewrite the whole thing. But here's what I'm asking you again. Suppose these backward people vote against removing it. Then it's still there and all you've done is shown how backward, how "hickified" and racist and intolerant the Nebraska citizens are. So is this really an attempt to hold up to the whole world how backward and all those other things I said that Nebraskans are? Is that your intent, Senator Harr? [LR389CA]

SENATOR HARR: No, I have great respect for the people of this great state of Nebraska. And I know they will do what's right, that they understand that this constitutional amendment is not right, that it is not...we tried something and the U.S. Supreme Court came down and told us no. And we know how to follow rules in this great state of Nebraska. We had on our books for a long number of years that you can't learn German. And I would probably say it to you in German but I've forgotten it. But now we can learn German. So...but it remained on our books for probably close to 80 years, I think, afterwards. I don't want this kind of hatred to remain on our books for 80 years afterwards. We have a problem in this state. We are fully employed. We have full

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employment. We need to find ways to encourage people to come to our state. And when you have something on your books such as this, we need to find ways to say we understand the U.S. Constitution and we abide by that U.S. Constitution. And I hope--and maybe I'll be proven wrong, but I don't think I will be--that these people of Nebraska will respect the U.S. Constitution and realize that this is moot. [LR389CA]

SENATOR CHAMBERS: But if you are wrong and I am right, what do you think the practical and when I say practical, the practical effect is that what's in the constitution will remain there. But in the real world, what will that say about this state and the people in this state? Would that kind of a thing encourage businesses to come here and other people who are forward looking to come here? Maybe anthropologists and others who study... [LR389CA]

SENATOR HARR: And it's for those reasons that I don't believe we would keep this a constitutional amendment. I think we would override it. We would repeal the previous one. And I know... [LR389CA]

SENATOR CHAMBERS: Can I give you an example of why I see things so much differently? You mentioned the low unemployment rate in Nebraska: 2 percent or something like...what is it in Nebraska right now? [LR389CA]

SENATOR HARR: Yeah, it's around 2.7 percent. [LR389CA]

SENATOR CHAMBERS: Okay. [LR389CA]

SENATOR HARR: And north Omaha it's much higher. [LR389CA]

SENATOR CHAMBERS: Twenty-two (percent). So you can see why I have a different view of everything that happens in Nebraska. [LR389CA]

SENATOR HARR: Yep. [LR389CA]

SENATOR CHAMBERS: And the people in this state voted against what they call affirmative action in all public activities. And we don't make up 10 percent of the population. So with an unemployment rate among white people of 2.7 percent, none of them will lose a job because a black person is hired, because a Latino is hired, because a Native American is hired. But to show their racism, they amended the constitution by a vote. And that's why I talk about Nebraskans. And because of me, a black man, they amended their constitution to put in term limits. And they put it in for Congressional people also, and that was stricken down by the federal courts. But that

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language is still there, isn't it? I want it to stay...I want to be enshrined in their constitution. I want them to...people to know forever that their constitution, because of a black man, was amended to hurt all white people who would run for office. I don't want that language taken out. But anyway that's kind of the bantering that goes on here, and we don't want to get out too early because people will think we're not doing our job. (Laughter) [LR389CA]

SENATOR HARR: Thank you. [LR389CA]

SENATOR KRIST: What? [LR389CA]

SENATOR CHAMBERS: I'm sorry. I speak only for me. [LR389CA]

SENATOR SEILER: Senator Burke, I have a question. I didn't see a fiscal note on this. Who would pay for this election? [LR389CA]

SENATOR HARR: Elections are paid for already, but mainly on the county. This would go up on the next election where we have other federal elections, state... [LR389CA]

SENATOR SEILER: So November... [LR389CA]

SENATOR HARR: What's that? [LR389CA]

SENATOR SEILER: November of 2016. [LR389CA]

SENATOR HARR: Yes, yes. [LR389CA]

SENATOR SEILER: But who actually pays that? Does it pay at the county level or at the state level? [LR389CA]

SENATOR HARR: Well, there's no fiscal note so it would be the county level. [LR389CA]

SENATOR SEILER: Okay. [LR389CA]

SENATOR HARR: And you know, the cost would be de minimis because we're already doing ballots, we already have poll workers, we already have everything that goes into an election. [LR389CA]

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SENATOR SEILER: I just wondered who paid for it. Okay. Any further questions? Thank you very much. [LR389CA]

SENATOR HARR: Thank you. [LR389CA]

SENATOR SEILER: You will be around for closing? [LR389CA]

SENATOR HARR: Yes. [LR389CA]

SENATOR SEILER: Okay. Proponents of this bill. Any proponents? [LR389CA]

ELLEN HANSEN: Are you guys getting tired of me yet? Ellen Hansen, E-l-l-e-n H-a-n-s-e-n, known in the community as "Elle," spelled E-l-l-e. Thank you for your time once again, Chairman, members of the committee. I hope you're not too sick of me yet. I would support this bill. And I've heard what...your thoughts, Senator Chambers, but I still support this bill because if bigoted people want to challenge it and vote no, there are always ways...correct me if I'm wrong, we have an attorney...we have attorneys in the room, it could be struck down by the Supreme Court as unconstitutional and the Supreme Court, could they, by an act of their own doing, nullify and basically do what Senator Harr has suggested with his constitutional amendment? Obviously it's the option of the people if they're casting a ballot to say, no, we don't want to follow the law of the land and that would be very unfortunate. It would not, however, surprise me unfortunately. However, as a member of the LGBTQ-plus community, I am here in support of this and would ask that this be given to the people of Nebraska for a vote. Thank you. [LR389CA]

SENATOR SEILER: Any questions? Thank you for your testimony. [LR389CA]

ELLEN HANSEN: Thank you. [LR389CA]

SENATOR SEILER: Any further proponent? Any opponent? [LR389CA]

GREG SCHLEPPENBACH: Good afternoon again, Chairman Seiler and members of the Judiciary Committee. My name is Greg Schleppenbach, G-r-e-g S-c-h-l-e-p-p-e-n-b-a-c-h, and I'm testifying as executive director of the Nebraska Catholic Conference which represents the collective interests and concerns of the Diocese of Omaha, the Diocese of Lincoln, and the Diocese of Grand Island. Marriage is a covenant or partnership of life between a man and woman which is ordered to the well-being of the spouses and to the procreation and upbringing of children. It is and can only be the union of one man and one woman. It is the only institution

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that unites a man and a woman with each other and with any child who comes from their union. Marriage is based on the truth that men and women are complementary, the biological fact that reproduction depends on a man and a woman, and the reality that the ideal setting for raising children is with their mother and father. Redefining marriage does not simply expand the existing understanding of marriage, it rejects these truths. Regardless of what a narrow majority of the Supreme Court may declare at this moment in history, the nature of the human person and marriage remains unchanged and unchangeable. These truths about marriage motivate the Nebraska Catholic Conference to oppose LR389CA in addition to the following reasons. There's clearly no legal reason to remove this provision from our constitution. There is at least one other amendment--Article XII, Section 8; or Initiative 300--that has been ruled unconstitutional but remains in our Constitution. There are also numerous statutes that remain in the statute books despite being ruled unconstitutional. We would oppose this change to the state's constitution to conform to the Supreme Court's decision in Obergefell v. Hodges. Five justices wrongly declared same-sex unions to be the equivalent of marriage. Nebraska should not ascribe moral legitimacy to an erroneous judicial Opinion by undertaking to remove a provision affirming the truth about marriage in the state's constitution. Nebraska should continue to uphold the meaning of marriage for the benefit of children and for society as a whole. Obergefell has launched our country on a new trajectory of experimentation with the family, the fundamental unit of society, and Nebraska would be well served to wait and see how it plays out before eliminating Article I, Section 29 of the constitution. Thank you. [LR389CA]

SENATOR SEILER: Any questions? Senator Chambers. [LR389CA]

SENATOR CHAMBERS: But, Mr. Schleppenbach, the only thing you can argue is that there's a moral position that the church holds, that the current language underscores that position. And even though it's a dead letter, you think the constitution should keep that language in as a tribute to that particular moral principle. That's the way I interpret what you're saying and why it ought to be done. [LR389CA]

GREG SCHLEPPENBACH: I think that's a fair attribution. [LR389CA]

SENATOR CHAMBERS: Okay. That's all I have. I just want it clear what is being said, not that you are saying that as long as it's there it has any legal impact at all. [LR389CA]

GREG SCHLEPPENBACH: No, we understand that. [LR389CA]

SENATOR CHAMBERS: Right. And your words made that clear but I...well, you know how I like the record to...because not everybody pays attention to what is actually intended. Thank you. [LR389CA]

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SENATOR SEILER: Any further questions? Seeing none, thank you. Any further opponent? [LR389CA]

NATE GRASZ: (Exhibit 1) I appreciate another opportunity to appear before Chairman Seiler and members of the Judiciary Committee. Again, my name is Nate Grasz, N-a-t-e G-r-a-s-z. I'm the policy analyst for the Nebraska Family Alliance and represent them in my testimony. The question that I want to present and urge the committee to consider is simple. Why put the state of Nebraska through such a divisive, expensive, and inconsistent measure without anything being accomplished? Since the provision in our state constitution regarding marriage has already been ruled unenforceable by the U.S. Supreme Court, why go through the expense of bringing LR389CA to the voting public? Why create more controversy at this time over something that is not able to be applied anyway? The only thing that can come from this is more divisiveness. Over 70 percent of Nebraska voters placed the definition of marriage into the Nebraska Constitution in 2000. This is also a very inconsistent resolution. There are multiple other provisions in our state constitution that have been ruled unconstitutional by federal courts and yet they remain in our constitution, such as congressional term limits and Initiative 300, so why is the marriage provision the only amendment to be singled out for removal when there are other unenforceable amendments still in place? Not only would this be inconsistent, it is also an unnecessary cost to the state that will only provide more divisiveness. Thank you for your careful consideration of my testimonies today. [LR389CA]

SENATOR SEILER: Any further questions? Senator Morfeld. [LR389CA]

SENATOR MORFELD: Thank you for your testimony today. You noted that this would be expensive. I know that there's no fiscal note on this and I'm also an election law attorney. So can you tell me exactly how this would be expensive? [LR389CA]

NATE GRASZ: Well, I don't know what the exact expense would be, but as Chairman Seiler alluded to earlier wondering about the expense for getting this on the ballot, and since there's no fiscal note to it, we believe that would be at least some cost associated with this. [LR389CA]

SENATOR MORFELD: Well, I'll just let you know how elections work: 2016 we're going to have an election. It's an election year. And we're going to have a lot of candidates on the ballot. And then we're also going to be able to place other issues on the ballot. So the ballots are already going to be printed, the election is already going to be ran. So I'm not quite sure what expense you're referring to. [LR389CA]

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NATE GRASZ: Well, thank you for your comment. I look forward to getting back with you with that. But again, we still believe there will be an inconsistent measure that would only provide more divisiveness. But thank you. [LR389CA]

SENATOR MORFELD: Divisiveness that certain organizations, probably yours included, brought on to yourself. But that's a comment, not a question. [LR389CA]

SENATOR SEILER: Further...Senator Chambers. [LR389CA]

SENATOR CHAMBERS: Mr. Grasz, are you a lawyer? [LR389CA]

NATE GRASZ: No, Senator, I'm not. [LR389CA]

SENATOR CHAMBERS: Okay. Well, in your paragraph, your fourth paragraph where it talks about inconsistency, you mention the types of things that remain in the constitution, the words, even though they'd been stricken down: Congressional term limits and Initiative 300. Neither of those carries any moral or religious content and there were no arguments about either of them based on a particular church's religious persuasion or doctrine. But this that we're talking about does. Congressional term limits does not disparage any class of persons. It deals strictly with how long somebody can be in a political office, whoever they are. Initiative 300 does not disparage any group of people or indicate there's something wrong with them. It has to do with the type of ownership of property and the activities that can be carried on. This proposal, this proposition that's in the statute says something that is not true. It might be the opinion of a lot of people, but as Hitler said, Hitler said you cannot take 1,000 fools and produce one wise man. So if 1,000 people today said the earth is flat and they could get that in the constitution, that doesn't mean it should stay there. To say that whatever the exact wording of that provision is that the U.S. Supreme Court struck down is on a par with Congressional term limits or Initiative 300 is to mischaracterize what we're talking about. And the fact that the Catholic church and you who represent a quasi-religious operation are here in opposition to this shows why this is different from all of the others. You acknowledged before, I believe, if not in so many words, that the position you were articulating is based on a religious notion of certain things and how they ought to be. And this one certainly is. So that makes it different and I think you knew that before you came up. I think Mr. Schleppenbach knew that, but he just acknowledged that it's a particular moral position that they hold that they think ought to be left in the constitution as, if you want to call it that, a testimonial, and that's my term, to that moral position. That's not what a constitution is for. A constitution is the organic law of the state. And if it has no force and effect, it's a dead letter. And the book says let the dead bury the dead. But I believe that if this is put to a vote of these intolerant people in Nebraska they'll want to leave it there, just like they're opposed to doing away with the discrimination of people based on sexual orientation. But if that was the

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practice when Michelangelo was decorating the ceiling of the Sistine Chapel, he couldn't have done that work. But those Catholics were men of the world, they were practical and they didn't care what a person's sexual orientation was. They didn't care if he was a whoremonger, they didn't care if he was a rapist, they didn't care if he was a drunk if he was a great artist. Read about the statues, the tombs, the decorations not only in churches but in buildings throughout Italy and Rome and study the background of some of the people who did that. So when, in 2016, people want to say that because of somebody's sexual orientation they should be denied the protection that is given to others, that's so out of step that I have to be opposed to that attitude. They say, well, they think that sexual orientation is a matter of choice. Well, let's say that it is, which I don't believe it is. Religion is a matter of choice, but you can't discriminate against somebody because of their religion. Marriage is certainly a matter of choice but marital status cannot be a basis for discrimination. So something which scientists have stated is not a matter of choice, these religious people say, well, yes, it is and you can discriminate because they choose to be that way. You know why I want to get that in the record? So that if the Legislature votes to put this on the ballot, and I will do it because it's the right thing to do, I want the record to be crystal clear that I predicted how intolerant, how discriminatory, how hate filled the majority of Nebraskans are, how the concept of human dignity has no meaning whatsoever to them. And they want to put that degrading notion, leave it in the constitution despite the fact that the constitution is not for that purpose. But you're entitled to express your point of view. Everybody is. And I'm glad that these views are expressed so that when the day comes and you all's view prevails as I think it will, then I can say the majority is not always right. And I think what Senator Harr is doing is the right thing to do. And it shows that in this cynical, skeptical time, there still are dreamers who some people would describe as delusional. I don't think it's delusional. It's aspirational, but it is not delusional. There are some people, who despite the odds against what they're trying to do, will pursue what they think is right. And now I'm going to give...pay devoir to the validity of what you say you believe--that means my respect. You're doing what your belief leads you to do. Now in order that I don't make a presumption, are you expressing here today your view or the position of this organization as its lobbyist? [LR389CA]

NATE GRASZ: Both. [LR389CA]

SENATOR CHAMBERS: Both, okay. [LR389CA]

SENATOR SEILER: Senator Krist. [LR389CA]

SENATOR CHAMBERS: That's all that I...no, I didn't say I was through just because I (inaudible) but I am. (Laughter) [LR389CA]

SENATOR SEILER: Senator Krist. [LR389CA]

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SENATOR KRIST: Can I go now? [LR389CA]

SENATOR CHAMBERS: Yes. [LR389CA]

SENATOR KRIST: Okay. I'm making a comment, again, for the record. We had a conversation in here and I know you were here for this conversation, Nate, about Revisor's bills. So if we had Revisor's bills for constitution...for parts of our constitution, I might suggest to Senator Harr that this one and (Initiative) 300 and Congressional term limits and the right to hunt and fish and a bunch of other ones that are in the constitution which I think are...one of them is ridiculous, the others are obsolete, also being included in this conversation. It's not, that's not the process. That's not what we can do. It has to be single focus, single items. And what goes on the ballot has to be very, very clear in terms of what happens. The question I will ask Senator Harr when he comes back up, is this clear and who has helped him write this in terms of how the voters should respond to this. I find there's some ambiguity. I find that there's an issue in terms of how it's written, but I'll deal with that. So the fact that you have cited things that also should come out, I believe is a relevant part of this conversation, and by the way, I did not vote to put a constitutional amendment in for the right to hunt, fish, and otherwise commit debauchery. Thank you, Nate. [LR389CA]

NATE GRASZ: Thank you. [LR389CA]

SENATOR SEILER: Senator Pansing Brooks. [LR389CA]

SENATOR PANSING BROOKS: I just...I finally can't let it pass. I find it so disappointing that two religious groups continue to hold on to and harbor the, I think, disrespect of Nebraskans in our state. Enough hurt, enough harm, enough damage has been done by the religious institutions to the hearts of Nebraskans. And I speak as the mother a gay man who ought to have the full respect and at least the dignity from the institutions that profess to teach about love and compassion and the word of the highest being, in my opinion. And for your groups to come in and continue to harbor on and hold on to the hatred and lack of respect and lack of compassion for my family and for many other families, I just cannot believe that you are still doing this. And it's very hurtful and it continues the hatred. It continues the lack of respect that we have in this state. And I hope that you can drop it. The Supreme Court has spoken. You all quote the Supreme Court in many instances and I wouldn't talk to you this way if you weren't a lobbyist. And so I'm not respecting you as a human being, but I do not respect this continuation of holding on to the hatred and the lack of humanity and the lack of love for our brothers and sisters in this state. Thank you. [LR389CA]

SENATOR SEILER: Further questions? Thank you. [LR389CA]

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NATE GRASZ: Thank you. [LR389CA]

SENATOR SEILER: Further opposition? Seeing none, anybody in the neutral? Seeing none, Senator Burke Harr, you may close. [LR389CA]

SENATOR HARR: Thank you. I'll keep this brief because Revenue is waiting for me. Let me just state this and I think we all know this. You know they call a 5-4 Opinion? The law of the land. It is the law of the land, folks. It's that simple. This has absolutely nothing to do with morality. This has to do with our constitutional right. This is the kind of problems we faced in the '60s with President Kennedy with the fear that the church would try to take over the state. No, this is about what has the Supreme Court said and what does our state constitution has...say. It's that simple. It's nothing more, nothing less. If you want to find bogeymen, you can find bogeymen and make this moral issue. It's not about morals. It is about the constitution. Period. Thank you. [LR389CA]

SENATOR SEILER: Senator Krist. [LR389CA]

SENATOR KRIST: So, I'll vote for you. That was a hell of a stump speech. At the end of this, it clearly says this is the language that would go on the ballot. [LR389CA]

SENATOR HARR: This is what? [LR389CA]

SENATOR KRIST: This is the language that would go on the ballot, right? [LR389CA]

SENATOR HARR: Yes. [LR389CA]

SENATOR KRIST: So the language to...and I'm not demeaning any of my fellow voters out there, but it says, "A constitutional amendment to remove provisions regarding marriage from the Constitution of Nebraska." Does that mean we can't get married? [LR389CA]

SENATOR HARR: Nope. Marriage is only mentioned in one part and it has to do with the part that says marriage is solely between a male and a female...a man and a female--I can't remember the exact language. I don't have it in front of me, but that's the only place it's mentioned. [LR389CA]

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SENATOR KRIST: You're a man of words. Don't you think there needs to be a descriptor in there that tells people what they're voting for specifically to remove the words and to...? [LR389CA]

SENATOR HARR: Yep, and I'm also...and I'm a lawyer too. And so I thought... [LR389CA]

SENATOR KRIST: That's what I meant. [LR389CA]

SENATOR HARR: Yeah. So I really thought that we would...it would be similar to how we repealed the Eighteenth Amendment on the U.S. level. I took it up to Bill Drafters and this was the language that was given. While I may be an attorney, I'm not a Bill Drafter and there is a distinction. And so that's why I went with the language that was given to me. [LR389CA]

SENATOR KRIST: I would hope that...and we can talk about it in Exec and you can give us your opinion, but I would hope that there would be a more descriptive definition of what they're voting for, yes or no. [LR389CA]

SENATOR HARR: And as we like to say, I'm always open to amendments. [LR389CA]

SENATOR KRIST: Yeah. Thank you. [LR389CA]

SENATOR SEILER: Senator Chambers. [LR389CA]

SENATOR CHAMBERS: We'll have something to say about that, and then the Attorney General will prepare the final language. No, I meant it's not just what's in there but they will have to state in a way that's very clear and unambiguous what it does, you know, so that when people vote. But to get at something else, I didn't want that nativity scene to be in the Capitol. But the Catholics said that the constitution and the Supreme Court said we could be here, so they wanted what the Supreme Court said to prevail when it let them do something that a lot of people did not want to have happen. But now that the Supreme Court has spoken talking about the law of the land, they come in here and say, but we want the constitution to carry something that is not true, that has no effect whatsoever, and for the constitution to be demeaned. Now I would be in favor of removing all dead language, but you'd have to do it by way of a constitutional amendment. That's why I'm bringing the bill that I am so that there could at least be an explanation that this particular section has been ruled...and this isn't the language but to simplify... [LR389CA]

SENATOR KRIST: Right. [LR389CA]

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SENATOR CHAMBERS: ...has been voided by the Supreme Court or the Nebraska Supreme Court and has no meaning whatsoever. And that would be in what would be called the official version of the constitution so if anybody wanted to know what that was it will be on-line and will be prima facie evidence in legal proceedings of what the Constitution of Nebraska is, which doesn't exist now. But the only way we could get all that other stuff out is to have an individual constitutional amendment for each one because, as Senator Krist pointed out, we cannot put more than one item in. And I think this is the one that deserves to be singled out because of the hatred that spawned it, the hatred that continues to exist. And there have even been some judges at the state level who were removed from office because of their position on some of these kind of issues. And it should not be in the constitution. They talk in their opposition to what you're doing about division and controversy. They created it. They're the ones who put that mess in the constitution. They did it. They started it. So what they want to do is say I want to slap you and now that you're going to hit me back I don't want you to hit me back because that then creates controversy. They started it and I think the Legislature has an obligation whenever something is presented to us by way of legislation to deal with that. And it doesn't settle that issue by saying, well, not everything that could qualify for this has been dealt with. So I hope you push on. I will support it. And I'm saying it so that my position is clear and whatever negative baggage it creates for me. See, I come from a community that's backward when it comes to this too. I had a program...and then I'm going to let you go. I want this in the record. I had a program on public television and Ben Gray on the city council, Mayor Stothert, and the city council got Cox, let them know that they didn't want my program on there anymore so it was taken off. But I would get calls when I would bring bills every year to prohibit discrimination based on sexual orientation. And believe it or not, before it got to the Supreme Court or was even something strongly controverted here, I offered a bill to make same sex legal in Nebraska. A guy called me. He said, Chambers. I said, um-hum. He said, man, I respect what you...I'm relating it the best I can remember because it's stuck in my mind. He said, I know that you don't go for this kind of stuff. I said, what kind of stuff is that? He said, well, you know, a guy marrying another guy. I said, and you know that I don't go for that? He said, yeah. I said, then why are you calling me? Well, because you're trying to do something in the Legislature to make people do this. I said the law can't make anybody do anything; it allows them to do this. He said, well, no, I don't even think they ought to be allowed to do it. And I said, who are they? He said these homosexuals. I said, are you homosexual? Now, I'm going to substitute the word "heavens." But he said, heavens, no! I said, well, do you want to marry a homosexual? Heavens no! I said, then why don't you let them marry each other? He said, you know, I never even thought of that. (Laughter) I said, okay, well, are you all right with it now? He said, yeah. People who genuinely might have that kind of a view and haven't thought it out is one thing because you can show them a point. But these dyed-in-the-wool-hat religious people have thought about it. They don't care about the harm it does to families. They don't care about the degradation it brings to individuals. They don't care about it doing away with that notion of I am my brother and my sister's keeper. And they want their view to be enforced on everybody. I say, in their church, let them do what they

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want to as long as they're not, you know, human sacrifices and like that, and that's not what they're talking about. But what they want to do in their church, fine. And if a priest doesn't want to perform a wedding or any church, fine. I don't get involved in that. But there was a wedding that I was asked to officiate over. And both parties were Catholic and they wanted me to perform the ceremony. And one...the mother of one or the other wanted it in a Catholic church. Well, that couldn't be done and I officiate. So there was a priest, and the Archdiocese retired him. I don't know if it had anything to do with this, but he's known as Father Ken, Ken Vavrina. And the people came to him and asked him could I perform this ceremony for them in his church. And he said: I'll tell you what I will do. Senator Chambers can do everything that is involved in this ceremony, but when it comes to the part that is considered the sacrament, which I call the "abracadabra" even when I do it, a priest has to do that. And even if somebody who is not a priest was willing to do it, that person cannot in a Catholic church do that because it's the sacrament. They agreed to that. I agreed to it. And the wedding was performed. And when we got to the part of the exchange of vows and the part that relates to their sacrament, he stepped in and did it. So there are accommodations that can be reached. And I'm saying again, I don't know if that's why they retired him because the community, including myself, signed a petition to allow him to continue as the priest in...it was St. Benedict. If there were some way that people could keep their religion in their temple and let the state keep its activities in the statehouse, then there wouldn't be any problem. But when they want to come out of the temple, into the statehouse, that's when a problem develops between them and me. I would never go into their temple or their synagogue or their chapel or church or whatever they call it and try to turn it into a political setting. So they want to dominate in their world and keep me out of it, which they couldn't drag me into it, then dominate this part of the world, too, where everybody has to be embraced. We know religion doesn't embrace everybody; it's exclusionary. The state has to be all-inclusive, and that's why you have to keep religion out of it and that's why I am glad that those people who feel like they do did come forth because it makes my argument and will show me that they're not content to have it the way they want it in their church. So when they talk about Islam and say that when you have a society ruled by these sectarian people, these religious people, you can't have that. Americans push for secularism. In Egypt, Iraq, Iran, all of the Middle East, wherever Islam is located they want the secular authorities to rule, not the religious. But in America they turn it on its head. We want the religion to predominate. And that's why they're considered hypocrites around the world and not accepted. I'm through now, but I had to say that or I would have burst. [LR389CA]

SENATOR PANSING BROOKS: I'm sorry. One more thing. [LR389CA]

SENATOR SEILER: Senator Pansing Brooks. [LR389CA]

SENATOR PANSING BROOKS: Thank you, Chairman Seiler. Senator Harr, when I first saw this and read it, I thought I'm not going to vote for this. I think that this needs to remain in the constitution as a reminder of our ignorance, as a beacon of...and reminder of how hateful we can

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be to one another. But now that the groups have come forward and want to maintain it because of a meager 5-4 decision of the Supreme Court, which is now losing its credibility with that group in this one issue, I will have to fight with you on this. And I just...I cannot imagine coming forward and wanting to continue the hate. It's one thing to sit back and just let it go. It's another thing to continue the hatred and the hurt that is being inflicted upon friends and family that I have. Thank you. [LR389CA]

SENATOR SEILER: Anything further, Senator? [LR389CA]

SENATOR HARR: Thank you. Appreciate it. [LR389CA]

SENATOR SEILER: You're welcome. [LR389CA]

SENATOR HARR: Have a good one. [LR389CA]

SENATOR SEILER: That closes...oh, by the way, there was no other submissions of written documents. We're done. [LR389CA]