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Judiciary Committee
December 10, 2012

[LR478]

The Committee on Judiciary met at 9:00 a.m. on Monday, December 10, 2012, at the Omaha City Council Legislative Chambers, Omaha, Nebraska, for the purpose of conducting a public hearing on LR478. Senators present: Brad Ashford, Chairperson; and Colby Coash. Senators absent: Steve Lathrop, Vice Chairperson; Brenda Council; Burke Harr; Tyson Larson; Scott Lautenbaugh; and Amanda McGill.

SENATOR ASHFORD: Good morning, everyone. Welcome to the Judiciary Committee. I think some of my colleagues will be coming. I know I think Senator Harr is coming and Senator Coash is on route, in route...not en route, that's French, right? We appreciate on the committee...and let me introduce my legal counsel, LaMont Rainey who's behind in the back, and Oliver VanDervoort is the committee clerk, and Oliver will be making sure that everything is recorded properly. Thank you, Jack. And thanks to the city council for granting us the opportunity to have our hearing here. I'd like to applaud Senator Nordquist for his energy and commitment to these issues and bringing this resolution to our attention. Let me go over a few ground rules because we're going to need to be out of here by noon at the latest. So we have three hours which hopefully will be enough time. Senator Nordquist is going to lead off with his comments, and then I believe there are some...there are researchers here from UNMC, is that right, somewhere? Oh, they're here. Okay. There they are. And they're going to give their findings to the committee and to the group. And then we'd ask...to try to, if you would keep your comments to, you know, maybe 15 minutes or so, 10 to 15 minutes. And then we're going to try to keep everybody's comments to around three to five minutes simply because we want to give everybody an opportunity to be heard. So how many wish to testify today? Okay. Good. And there's no particular order. This is not a for or against thing. So we'll just... [LR478]

SENATOR NORDQUIST: We put together a list of who we have. [LR478]

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SENATOR ASHFORD: There is a list. Okay, we can go through this list, and it's broken up by topic I think, isn't that right, Senator Nordquist? [LR478]

SENATOR NORDQUIST: Yeah, yeah, and then it's open to the public after that. [LR478]

SENATOR ASHFORD: Okay. Why don't we start with...Senator Nordquist, would you like to introduce the resolution for me? [LR478]

SENATOR NORDQUIST: Thank you. Mr. Chairman, thank you for taking some of your committee's time. I know it's...as we're getting ready for a long legislative session it's an awfully busy time for us in the Legislature, and I just want to thank you for making LR478 a priority of your committee to hold a hearing. And we're here today to examine the issues of discrimination based on sexual orientation and gender identity in Nebraska. And I firmly believe, as I know most Nebraskans do, that all Nebraskans including those who are gay and transgender need the same opportunities to pursue health and happiness, earn a living, feel a sense of safety, contribute meaningfully to their communities, and take care of the ones they love. I think that's what we all want. I think that's what we should be working towards to ensure that all Nebraskans have that ability. And during my time in office in the four years now, I've heard from many constituents and other Nebraskans who feel that there are barriers to that for them. So that's the reason we introduced this legislative resolution. When we introduced it, it was focused largely on the issue of employment discrimination. That was obviously a hot issue and continues to be in our state as the cities address that. So we introduced it to mainly look at that, but we also wrote it broadly to encompass other issues. And since that time of introducing this legislative resolution, I've been approached on a number of other issues that I think stand in the way of that ultimate goal that I mentioned. We have a long list of testifiers, as you said, and we've provided that to your committee. I think it's important to note that many of the individuals testifying today come certainly with some risks with their association to this LR. Omaha does have in place currently employment

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protections, but that is not a statewide protection and many of these individuals are willing to face that risk to share their story with the Nebraska Legislature. So I appreciate everyone who's taking time to be here today to discuss these important issues. In order to move the hearing along, we have asked a number of individuals, a few individuals, to submit their testimony in writing, and the Anti-Defamation League, and Craig Moody, who is a small business owner and an active young professional has done that. So I will also just another...I think you may have mentioned it, but we need every testifier to get their sheets filled out right away and get them to the committee clerk. So with that, Mr. Chairman, and thank you for joining us, Senator, we will go ahead and get the hearing started. [LR478]

SENATOR ASHFORD: Thank you, Senator Nordquist. Senator Coash has joined us from Lincoln. Thank you, Colby, for coming up. Why don't we start with Dr. Jason Coleman, Dr. Christopher Fisher, and Dr. Jay Irwin. And if they would like to maybe sit down...yeah, there they come, and they've filled out their sheets. In Lincoln, we have chairs for...(laugh). I don't want that...Jack, that's not a reflection on the city. So go ahead. [LR478]

CHRISTOPHER FISHER: (Exhibits 1, 2, and 5) Excellent. Good. Well, good morning. My name is Dr. Christopher Fisher, that's C-h-r-i-s-t-o-p-h-e-r F-i-s-h-e-r. I'm an assistant professor at the University of Nebraska Medical Center in the College of Public Health, and I come before you today as the lead researcher for the Midlands LGBT Community Needs Assessment research study, and that study was conducted at UNMC in collaboration with Dr. Irwin and Dr. Coleman who will introduce themselves now. [LR478]

JAY IRWIN: My name is Dr. Jay A. Irwin, J-a-y I-r-w-i-n. I'm an assistant professor in the Department of Sociology and Anthropology at the University of Nebraska at Omaha. [LR478]

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JASON COLEMAN: And good morning. My name is Dr. Jason D. Coleman, that's J-a-s-o-n C-o-l-e-m-a-n. I'm an assistant professor in the School of Health, Physical Education and Recreation at the University of Nebraska at Omaha. Together, we share expertise in public health, sexual health, mental health, and the health of LGBT populations. The testimony that we give today reflects the findings of a research study and our expertise as researchers. The testimony, however, does not reflect any official position of the University of Nebraska as it relates to this legislation. The study we conducted, the Midlands LGBT Needs Assessment, resulted in a comprehensive community report and two addenda on employment discrimination for LGBT persons living in Omaha and Lincoln. These reports are available on our Web site for the Midlands Sexual Health Research Collaborative at the Web address here, and we've submitted testimony so you'll have this as well. The reports contain full details regarding the methodology and findings beyond those relevant to today's hearing. Briefly, we wanted to provide the context for the study. Many organizations serving LGBT persons throughout the state of Nebraska indicated a need for data on LGBT health in order to better serve their clients. Further, while many studies of LGBT health exist, none have been conducted in Nebraska and few have looked at the whole community. To that end, the purpose of our study was to gather descriptive data about the health and well-being of lesbian, gay, bisexual, and transgender persons who live, work, or spend a substantial portion of time in Nebraska. We worked closely with a variety of community partners to develop a study, collect data, and develop meaningful reports for the community to use in efforts to improve health outcomes for this community. We recruited participants using a modified snowball sampling method, whereby we used social and professional networks to disseminate a recruitment message which was subsequently passed on to other people. The snowball effect of a recruitment message being shared throughout networks and other media sources resulted in over 1,000 people responding to the message and 770 completing the entire survey. As you can see, slightly more men than women responded to the survey. Ninety-two participants identified as transgender. As this was a study of LGBT, it was not surprising that 75 percent identified as gay or lesbian. The 22 individuals identifying as straight also

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identified as transgender. Similar to the general population, the vast majority of participants identified as Caucasian. The map shown on the screen, also available in the full report, shows frequency of participants by zip code. The vast majority came from the Omaha and Lincoln metro areas. We also received a number of respondents from the tri-cities area in central Nebraska. Our team made many efforts to reach out beyond Omaha and Lincoln. Based on other research, we think the lack of participation from western Nebraska and other rural areas of the state is indicative of higher levels of stigma. Some LGBT populations in these areas may have not responded due to concerns or fear of being identified as LGBT in a potentially hostile environment. [LR478]

SENATOR ASHFORD: How did you get this...I'm sorry... [LR478]

JASON COLEMAN: No, go ahead. [LR478]

SENATOR ASHFORD: There it goes. How did you get the information out? Did you say it and I didn't hear you say it? How did you get this survey out? [LR478]

JASON COLEMAN: We distributed a number of fliers. We posted in LGBT publications, posted to LGBT listservs, and through professional and social networks, and... [LR478]

SENATOR ASHFORD: Okay, so it went to...okay...and then that...okay. [LR478]

JASON COLEMAN: ...and then they went to a Web link hosted through UNMC and completed the survey there. [LR478]

SENATOR ASHFORD: Okay. Thanks. [LR478]

CHRISTOPHER FISHER: We also did a press release through UNMC's PR department, and that press release was picked up by the AP wire, so that gives a lot of

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coverage as well to help reach out beyond Omaha and Lincoln. [LR478]

SENATOR ASHFORD: Okay. [LR478]

CHRISTOPHER FISHER: So the table shown here...again, Mr. Christopher Fisher, that's for the transcripts, the table shown here and available in the full report shows the frequencies with which participants had experienced some form of discrimination in the last year based on their LGBT identity. The most common experience of discrimination was verbal insults or name-calling. And not insignificant were threats of violence and job-related discrimination also common for our participants. And again those full numbers are available in our full report. Those items that you just saw as well as others formed a scale which is shown here. And someone scoring on the far left of 15 did not experience any discrimination. We had about 115 people who did not indicate any experiences of discrimination based on their LGBT identity. But this tells us that in the past year, 655 of the 770 people, or 85 percent, have experienced at least one instance of discrimination based on their LGBT identity. While violence was considerably lower than discrimination events, actual and attempted violence was reported by 15 percent of our participants; even more reported damage to property, again based on their LGBT identity. In the larger context in the United States, LGBT-related violence reported as a hate crime constitutes about 18 percent of all violent crimes according to the FBI. So that gives you a little bit of sense of where we fall based on the national context. In addition to discrimination experiences, we also measured depression using a standardized scale developed by the Centers for Disease Control called the Centers for Epidemiological Studies Depression Scale. While this scale is not a diagnostic tool, the red line shows an established clinical cutoff based on research; those to the right of the line suffered probable clinical depression. Finally, we measured how many people accepted their own sexual orientation and/or gender identity. As seen on the graph, higher scores indicate higher levels of self-acceptance of that identity. Because our participants in order to participate had to self-identify as LGBT, we expected this to be relatively high. However, we were very surprised to see that were a significant number

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of people who scored in the middle and upper-middle portion of the scale. This tells us that while many of our participants have accepted their sexual orientation or gender identity, there are many who have low levels of self-acceptance, which is likely related to societal stigma based on the research. Perhaps the most salient and shocking findings of the study was the high level of suicide ideation. Nearly 50 percent of participants had considered seriously suicide. This compares to 13 percent of the general population. While many said that this was during their teens and twenties, we also had respondents indicating thoughts of suicide in their thirties, forties, and even in their fifties. And of course suicide ideation leads to actual suicide attempts. Nearly 20 percent of our participants had also attempted suicide. This compares to 3 percent of the general population. So as we begin to make sense of all these numbers, it's helpful to look at a well-studied framework for trying to explain how discrimination can impact an LGBT person's life. This model is called the Minority Stress Model developed by Ilan Meyer in the 1990s. The model essentially indicates that stigma-producing events such as discrimination and violent acts--seen on the far left of your screen--create stress, particularly when they are experienced repeatedly and over long periods of time. The model also indicates that stress can be produced just by reading about it or seeing it on the news any incidents of violence and discrimination. This stress impacts how self-accepting one is of their gender identity or sexual orientation. Increased stress and lower self-acceptance work together to lead to negative mental health issues, most commonly depression. That increase in depression equates to an increase in risk for suicide as well as other negative health outcomes. As mentioned, this model is very well-studied and supported in research beyond our own. Here is just a sampling of the findings and their related scientific support. Most notable has been the consistent findings that support the notion that increased stress resulting from discrimination and other factors such as violence, lead to increased and prolonged levels of depression and distress. Several studies have also shown that increased negative health behaviors such as smoking, excessive drinking, and sexual risk taking are linked to depression which is caused by discrimination. [LR478]

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JAY IRWIN: This is Jay Irwin. We have found similar results in our own study of LGBT Nebraskans. LGBT Nebraskans who experienced discrimination because of who they are were at statistically significantly higher risk for depression, suicide ideation, and actual suicide attempts. Similar results are forthcoming in a scholarly, peer-reviewed scientific journal. These results are the product of a logistic regression analysis using the program Statistical Package for the Social Sciences--SPSS, version 20. Presented on the screen are odds ratios and p-values, a way to test for significant relationships. To interpret these results, an odds ratio of 1.05 for the relationship between discrimination and depression indicates that as a person experiences a one-unit increase in discrimination events, they are 5 percent more likely to experience probable clinical depression. Not surprisingly, those who have had a harder time accepting their identity were at a statistically significant increased risk of depression that could be defined as clinical depression. The odds ratio for this variable indicate that self-acceptance increases by one unit, the likelihood of suicide ideation decreases by 8 percent. Taken together, these results and that of other researchers strongly suggest that discrimination on the basis of sexual orientation and/or gender identity has real and significant impacts on the health and well-being of LGBT persons. It is the conclusion of our research team that efforts that can support changes in the behaviors of those perpetrating discriminatory events toward LGBT persons is a public health imperative. As with other minority groups, creating the conditions that allow all human beings to thrive is paramount to a healthy community. To the extent that policy and the law can help to facilitate protecting the health of all Nebraskans, we support Senator Nordquist's efforts to more fully explore this topic and encourage the Legislature to give the time and energy needed to determine the best course of action. We thank you for your time and we are happy to answer any questions. [LR478]

SENATOR NORDQUIST: Do you have hard copies of this report that we can distribute to the committee or can we get those? [LR478]

JAY IRWIN: We can provide those, yes. [LR478]

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SENATOR NORDQUIST: Okay. Good. [LR478]

SENATOR ASHFORD: Let me ask one question, and maybe I...because we're going through these awful quickly, and we need one of these things (laugh) in Lincoln. We're on sort of low budget and we don't get stuff like this. (Laughter) [LR478]

SENATOR NORDQUIST: That's why I don't have a chair, so the testifier needs to stay invested in this (inaudible). [LR478]

SENATOR ASHFORD: But I...let me...this is...your numbers seem to say that the self...what does self-acceptance mean? [LR478]

CHRISTOPHER FISHER: So self-acceptance has often been referred to in the literature conversely as internalized homophobia. So it's the internalization of feelings toward yourself about your own identity. And so we've relabeled that self-acceptance because on the converse, if you have the resilience to overcome the negative stigma, then you become more self-accepting of your sexual identity. [LR478]

SENATOR ASHFORD: And those individuals who are able to do that which...and I assume...because this study is 742 people, we don't know that much about each person, but I assume all 742 people have a different story or a different... [LR478]

CHRISTOPHER FISHER: Absolutely. [LR478]

SENATOR ASHFORD: ...they're at a different place in this continuum from being agonizing or... [LR478]

CHRISTOPHER FISHER: Absolutely. [LR478]

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SENATOR ASHFORD: ...to a point of self-acceptance. So self-acceptance means a realization of... [LR478]

CHRISTOPHER FISHER: And self-acceptance is a complex phenomena, and it's not only...it's ultimately internalizing yourself, but it draws in a lot of external factors. So for a young person who is coming out as gay or lesbian or bisexual or transgender, if they have a very supportive family, if they have supportive friends, their journey to a higher level of self-acceptance happens a lot quicker than, say, someone who is ostracized, kicked out of the home, left homeless, they may have a much harder time accepting their sexual orientation and gender identity. [LR478]

SENATOR ASHFORD: And did I understand you to say there's a correlation between self-acceptance and lack of risk factor...I mean your risk factors go down as self-acceptance goes up. [LR478]

CHRISTOPHER FISHER: Exactly. Exactly. [LR478]

SENATOR ASHFORD: Again...okay. And in your study did you examine risk factors of these individuals, what risk factors they've had in their lives? [LR478]

JAY IRWIN: In terms of...? [LR478]

SENATOR ASHFORD: What are their obstacles to get...is self-acceptance up here and no self-acceptance down on the other side? Is that what you're... [LR478]

JAY IRWIN: Yeah. I mean, it does exist on a continuum where there's the utmost category of full acceptance that I'm completely 100 percent comfortable with who I am and my identity versus someone who's currently still struggling with I'm very uncomfortable in terms of because of society's relationship with treating LGBT individuals poorly and I'm still struggling with that. I (inaudible). [LR478]

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SENATOR ASHFORD: So the risks generally are greater at that lower end of the continuum. [LR478]

JAY IRWIN: Yes. [LR478]

SENATOR ASHFORD: And that could be primarily in younger-aged individuals but also, as you said, thirties, forties...people in their thirties, forties, and fifties are also susceptible. Senator Coash, do you have comments? Senator Nordquist. [LR478]

SENATOR NORDQUIST: And maybe this is beyond the scope of your research, but did you come across anything that indicates maybe it's a correlation based on self-acceptance or just the LGBT population as a whole. But those that did suffer from clinical depression or identified, is there a greater reluctance from them to seek services for that? [LR478]

JAY IRWIN: We have no data about that. We don't have a variable that asks about how likely are you to go seek help. But there is a lot of literature that supports...for LGBT individuals who might have mental health issues there is a reluctance to seek care, especially in places that don't have strong LGBT-supportive mental health services. So there is that relationship in the larger research. [LR478]

SENATOR NORDQUIST: Okay. Great. Thank you. [LR478]

SENATOR ASHFORD: How long did this study, how long did you...what period of time did this cover? You started on what date and when did you close it? [LR478]

CHRISTOPHER FISHER: We started data collection in June of 2010 and closed data collection in November of 2010. [LR478]

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SENATOR ASHFORD: Okay. Thank you very much. All right. Let's...Amy is here, Amy Miller, would you...Amy is going to talk about...first of all we're going to talk about foster care and adoption issues I believe. [LR478]

AMY MILLER: (Exhibits 3 and 4) Thank you, Senators. I just want to speak briefly about two family law issues that are confronting same-sex couples in Nebraska: adoption and foster care. Adoption is particularly important to the ACLU because, in 2002, we represented two Lincoln women who had planned for a child together, had the child by artificial insemination, and then went forward to the courts under a normal adoption procedure to make sure that the second nonbiological mother would have legal protections and legal relationship with the child as well. The baby who is named Luke became a subject of a Nebraska Supreme Court case because the county court judge said I can't grant this adoption. Even though this is already the baby's mother and indeed the nonbiological mother in this family was the stay-at-home full-time caregiver while the biological mother was the out-of-home working parent, the county court judge said he didn't have jurisdiction to allow a same-sex couple to adopt a child together. We argued that to the Nebraska Supreme Court, and on the first page of my testimony you have the citation to the court case. The Nebraska Supreme Court also said we can't permit the adoption, not because this is a unfit couple, not because in any way, shape, or form their sexual orientation makes them unfit, but the court said they're bound by what the Legislature does. And the Nebraska state statutes relating to adoption are very specific. They talk in gender-specific language using "he and she," "mother and father," and they talk about stepparents. So the Nebraska Supreme Court, although they handed out a loss to Luke and to children like him, did it in a good way. They had nothing to say about whether or not same-sex couples are good or bad parents; they simply said we can only do what you, the Legislature, offer us. We can allow a single gay person to adopt, we can allow a married couple to adopt, and we can allow a stepparent to adopt, but because gay and lesbian couples can't get married, we're not going to be able to allow them to go ahead and adopt each other's children. Now on the second page of my testimony, I've outlined some of the legal protections then that are

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lost to all the children who are in Luke's situation. Ironically, of course, public policy has left wide open the fact that Luke's nonbiological mother could walk away from him and not pay child support. If she dies without a will, Luke will not inherit from her. Even if she leaves a will, Luke will inherit at the 18 percent inheritance tax instead of the 1 percent inheritance tax because they're legal strangers under the eyes of the law. And there's no legal protections that this family could construct artificially to try to knit together more legal protections. You can come up with a power of attorney, but when they're related to minor children those are limited to six months and must be renewed every six months, going back to attorneys and having those notarized and witnessed, and it does not offer any guarantees of protection upon the death of a biological parent because courts will still consider the best interests of the child; and if you had a judge who was hostile to a gay or lesbian parent, children like Luke could very easily be placed with someone who was not in fact the parent they'd grown up with. We don't know for sure how many children like Luke there are in Nebraska. According to the census, we have nearly 4,000 couples living in same-sex relationships in Nebraska, and we know that many of those people already have children by artificial insemination, by surrogacy contracts, or from previous relationships. We do know that nationwide we guesstimate according to the American Bar Association that there are 8 million to 10 million minor children being raised by same-sex couples. And the right question here is whether or not it's time for the Nebraska Legislature to make that tiny technical change the Nebraska Supreme Court described in order to permit legal protections for children like Luke. I also do want to briefly speak as to foster care. Nebraska is the number one state for out-of-home placement of children taken because of either abuse or neglect and placed in the care of the state. Now those children can either go into institutions or they can go to a foster family and have a living room and have a puppy and have a parent who asks them how was your day after school. Nebraska is one of the last two states with a categorical bar on gay and lesbian people serving as foster parents. That bar is not just for homosexual couples, it's also for someone who openly identifies as gay or lesbian but is living as a single person. I gave you with my testimony a copy of the 1995 memo that was distributed by the then-director of the Nebraska Department of Social Services, now

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DHHS, saying that we will not place any foster children with someone who is a known homosexual because we want a family-like setting. That insulting language then gets reinforced in the subsequent memo which I've also provided to you, from March, later that year, where they essentially outline this as a don't ask, don't tell sort of policy. We're not going to ask foster care applicants if you're gay, but if we learn you're gay, then you're not to be considered eligible even if you are the blood relative. So if the gay uncle steps forward upon the death of his sister and her husband and steps forward and said I will care for my niece and nephews, if he is openly gay the state will think about it but they may in fact deny him because it does not count as a family-like setting. Again that we don't have exact data as to how many children are being impacted by Nebraska's anti-gay ban on foster parents. We do know that there are approximately 4,000 children currently in foster care, and many if not most of them are not actually in a foster family-setting because we simply have a shortage. On my last page of testimony, I've given you the current case citations for the last couple of court challenges there have been to this issue. Missouri and Arkansas have struck down their bans on gay foster parents and I think Nebraska can do at least as well as Missouri and Arkansas. If you have any questions I'm happy to answer them, otherwise you have my citations if you need them and my testimony. [LR478]

SENATOR ASHFORD: Senator Coash. [LR478]

SENATOR COASH: Thank you. I wanted to clarify something I heard you say. With the ban on gay foster parents, did you say that was part of statute or part of the...I mean, you gave us these HHS memos. So which was it? Is it... [LR478]

AMY MILLER: That's a very good question, Senator Coash. There is no statute and there's no official regulation in place. These are internal memos that were generated by long-ago administrators who did not go through the Administrative Procedures Act and did not in fact have any open rulemaking process. So this is a fiat from on high which has impacted thousands of children. [LR478]

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SENATOR COASH: But there's no statute that says that there's a ban. We're just...what you're saying is we're kind of at the whim of the leadership of the department with regard to the ability of a gay person to serve as a foster parent. Is that correct? [LR478]

AMY MILLER: That is correct. [LR478]

SENATOR COASH: Okay. I just wanted to clarify that. Thank you. [LR478]

SENATOR ASHFORD: Of the two cases that are up now at the Supreme Court, one is dealing with gay marriage; the other one is dealing with...the California case I guess is the gay marriage case. And then the other case relates to foster...doesn't it relate to foster care? I believe it does. Does anybody out there know? (Laughter) [LR478]

_____: Gay marriage. [LR478]

SENATOR ASHFORD: Both gay marriage? I thought one was gay marriage and one was... [LR478]

AMY MILLER: One is gay marriage and is the DOMA, or one is an affirmative state that... [LR478]

SENATOR ASHFORD: Oh, that was the DOM...that was the affirmative... [LR478]

AMY MILLER: Right. So one is affirmative, one is a... [LR478]

SENATOR ASHFORD: Okay. [LR478]

AMY MILLER: ...aggressive take against the opportunity for marriage. It is interesting, and I pointed out in my testimony, I should just say that although these are old memos

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from 1995, we did an open records request last summer of the Department of Health and Human Services' current leadership to ask: Please provide a copy of any rules, regulations, or memos that are currently in force, and they returned us these 1995 memos and affirmed in the cover letter that these are still in force. We are representing several couples that are interested in being foster parents, couples who have passed the background checks, who have had the home study, who have gone through the classes. And we've asked the department: Will you consider waiving that internal rule to allow these couples to be foster parents? And the response was a resounding no. With, interestingly to tie it back to your question, Senator Ashford, an odd reference to the Nebraska State Constitution's Defense of Marriage Act banning marriage between a same-sex couple. We're not talking about marriage here; we're talking about providing a loving home for children that otherwise are sitting in institutions or juvenile detention facilities. [LR478]

SENATOR ASHFORD: Okay. And assuming...I'm sorry, Senator. [LR478]

SENATOR COASH: No, go ahead. [LR478]

SENATOR ASHFORD: No, go ahead if you... [LR478]

SENATOR COASH: With the decision of the current administration not to allow that, is that when you have the couple applying or if...? I mean, I know of lots of foster arrangements where, you know, technically the wife is the foster parent on record of having a contract, the dad may not be part of that. Was there denial of one of the two couples or just as a group the couple was denied? [LR478]

AMY MILLER: It's been a problem in all situations. In our couples that we're currently representing as we negotiate with the department, these are couples who have jointly applied to be foster parents, just as a husband and wife would, but saying we both will be caring for the child. And they've been turned down, saying no, because you are two

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people who are not married living in the same house. But we also have spoken with single gay and lesbian people who, once they became known to be gay, had their children taken away. One woman here in Omaha had been a former military, had become someone who decided she wanted to parent, and she was a lesbian but she was single. She lived alone. She had parented I think she told me 15 children, some of those were children who come and go as they return to their biological families, and she had adopted several. Most of the children that were being placed with her were refugee children who were teenagers, who were HIV positive and had PTSD or other mental health problems. When her caseworker, a new caseworker, discovered that she was a lesbian and asked her, she answered honestly, and they removed all of the children that were currently placed with her except for one. They left the hardest-to-place teenager with HIV who was the one with the hardest-to-place behavior problems. So we have this difficulty that the department has decided you're not fit to be a foster parent if you're gay, but holy moly, some of these kids, we don't know where else to put them. So even when it's a single woman who has no partner in the house who's applying and who has successfully parented and adopted children, the department is still exercising this memo to remove children from those sort of people. [LR478]

SENATOR COASH: Thank you. [LR478]

SENATOR ASHFORD: And the...still how recent is this case? [LR478]

AMY MILLER: This happened two summers ago. Senator Council's office actually brought this individual to our attention. The couples that we've represented are currently working with the ACLU and the Department of Health and Human Services to see whether or not we can negotiate resolution. [LR478]

SENATOR ASHFORD: Is it a tough negotiation? I mean, what's the...what are you negotiating? [LR478]

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AMY MILLER: We have suggested that legal action may be appropriate. [LR478]

SENATOR ASHFORD: Well, I mean, but what are you negotiating? [LR478]

AMY MILLER: We have asked the department to waive the memo and to go ahead and say we will evaluate every foster applicant on their fitness as to whether or not they'd be an appropriate foster care family rather than having a blanket ban on anyone who is gay or lesbian. [LR478]

SENATOR ASHFORD: And the...just so I...because these papers are flying across the table here fairly quickly, the memo that we're talking about is dated January 23, 1995, which, in my mind, that's a while ago. [LR478]

AMY MILLER: It's eons ago. [LR478]

SENATOR ASHFORD: Yeah. [LR478]

AMY MILLER: They still assure me that it is in force, and the question right now is we have proposed, we have several clients that we would like to say you could make individual waivers for these clients, and the Department of Health and Human Services thus far has met my requests for negotiation and a meeting, with deafening silence. [LR478]

SENATOR ASHFORD: And what you're...so just so I fully understand it, what you're trying to negotiate is away the language in this memo essentially. [LR478]

AMY MILLER: I would suggest that repeal of the memo and returning just to the basic...the rules and regulations in force in Nebraska say nothing as to sexual orientation. Rules and regulations on the books, if you were to pull the DHHS rules and regulations about foster care eligibility, it lists age and passing a background check and

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whatnot and having a house that is appropriate; it lists nothing as to sexual orientation. So we know the department simply needs... [LR478]

SENATOR ASHFORD: Can you point me to sexual orientation language in here? [LR478]

AMY MILLER: Yes. [LR478]

SENATOR ASHFORD: I'm sorry, because I just saw the memo. [LR478]

AMY MILLER: If you're looking at Administrative Memorandum, Human Services, 1-95, from January 23, 1995... [LR478]

SENATOR ASHFORD: Okay. [LR478]

AMY MILLER: ...Mary Dean Harvey, the director, says: It has come to my attention, through a department review of state statute and department policy, that the issues of sexual orientation is not addressed. It has also come to my attention the issue of preference for placement related to marital status of individuals who provide foster care is not addressed. It's clear, however, in statute and policy the state's direction is for the placement of children in the most family-like setting. [LR478]

SENATOR ASHFORD: Okay, I see. So it's in the second paragraph, "The policy also applies to the area of foster home licensure in that, effective immediately, no foster home license shall be issued to persons who identify themselves as homosexuals." However, if they didn't identify themselves as homosexuals, then they could become foster parents. [LR478]

AMY MILLER: That is the sort of don't...that is the don't ask, don't tell policy which is clarified in the second memo, which is right behind that, issued March 8, 1995. On the

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very bottom of that first page, the question: Should department staff specifically ask individuals about their sexual orientation? At this time, department staff are not directed to ask any specific questions about an individual's sexual orientation. If you flip: If an individual provides information during the licensing or placement process that indicates sexual preference, that information should be noted. Now the other problem here is the department claims this is a neutral policy not permitting anyone who has any unmarried adults living in the house together. So if my boyfriend and I wanted to be foster parents, they would say, Amy, no; since you are not married to your boyfriend, you are not an appropriate foster placement. The difficulty being, of course, my boyfriend and I can get married if we wish; a same-sex couple who are trying to start a family and provide a service to children can't get married under Nebraska law. And this policy does not apply just to a couple; it also says anyone who is a gay or lesbian person. So the single parent, such as Senator Council's constituent that we spoke about, is also barred from this. [LR478]

SENATOR ASHFORD: Thank you. [LR478]

AMY MILLER: Thank you. [LR478]

SENATOR ASHFORD: Okay. Is Donna Colley here? No. Tami? [LR478]

TAMI LEWIS-AHRENDT: Good morning, Senators. My name is Tami Lewis-Ahrendt, T-a-m-i L-e-w-i-s-A-h-r-e-n-d-t. I would like to take a minute just to tell you a little bit about myself. I'm a 40-year-old HR director of a nonprofit in Lincoln, Nebraska. I've worked in behavioral health for almost five years. I met my wife in 2001. We are both educated professional women who were excited to start a life together. We both came from large families. There are five children in my family. She has ten siblings. We were married in 2003 in a beautiful ceremony in our backyard. In 2007, we decided we wanted to start a family. At first it appeared to be an impossible task. We looked into the foster system and it became quite clear very early on that despite the overwhelming

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needs for families in Lincoln we could not be considered because we were two women who lived together and were both openly gay. We looked into adoption, and again the overwhelming number of children in the system, despite the overwhelming number of children who need permanency in the system, our options would be limited because we had decided to be open in our lives. In many cases we were referred to agencies that dealt with only international adoption, and even then we couldn't present together as a couple because we're unmarried under the law. We would have to lie about who we were, and we know people who have done that. Fortunately we found a friend who wanted to leave a legacy and he has helped us start a family. We have two boys: a three-year-old, and our youngest just turned one yesterday. They are healthy, happy boys, well-cared-for, and loved beyond belief. Their dad is a big part of our lives and all three of our extended families are part of our support network. We know that we are lucky to have this situation. As I mentioned before, I work in behavioral health, so I've had the unfortunate opportunity of watching the childcare system crumble in front of us. I know there are kids waiting in the system for a family that would care about them, to provide a stable environment for them and give them love. We would love to be one of these families. We would love to share our daily lives, our values, our children and our home, with kids who need them. We would open our home in a heartbeat to offer a safe and caring environment. It breaks my heart to know that there are kids sitting in shelters, emergency shelters, in inappropriate placements, in institutional environments because there aren't enough families in the system. It's a shame to be counted out as a viable solution because one or perhaps both of us are the wrong gender. I cannot speak for all LGBT people today or LGBT parents. I can only say that I know we're not the only couple willing to be part of the solution. I know that we have a home that is safe and would be a good place for a child, and I do believe that the discrimination of LGBT people in terms of foster care is a disservice to our community and to the system and to the children who need us. [LR478]

SENATOR ASHFORD: Thanks, Tami. Where did you adopt...did you adopt children here? [LR478]

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TAMI LEWIS-AHRENDT: I'm the biological parent of both children, and the father is also the biological parent. So someday when stepparents are allowed to adopt in the state of Nebraska, my wife will be able to adopt legally. [LR478]

SENATOR ASHFORD: Okay. Fair enough. Okay, any other...thank you very much for your comments. [LR478]

TAMI LEWIS-AHRENDT: Thank you. [LR478]

SENATOR ASHFORD: Emily (phonetic) I think is...or it's Emile, I'm sorry. It is Emile. There's no Y at the end of this. [LR478]

EMILE WIPPIER: I should hope not. (Laughter) [LR478]

SENATOR ASHFORD: It is Emile. I apologize. [LR478]

EMILE WIPPIER: You're fine. You're not the first one to do it and you won't be the last. My name is Emile Wippier, E-m-i-l-e W-i-p-p-i-e-r. [LR478]

SENATOR ASHFORD: Okay. [LR478]

EMILE WIPPIER: I was actually a foster care child myself, and I was placed in foster care in 2006 or 2007, whichever. I think it was the end of 2006, but I remained at the CSI, Child Saving Institute, for over four months when it's only supposed to be a temporary emergency placement for foster children. And I know of couples who are same-sex couples who are constantly denied to adopt or foster anyone. And my whole point in my testimony is I could have been...myself or people like me could have been taken out of that emergency situation a lot sooner if there were more couples allowed to actually adopt or foster children in their own home. So the whole discrimination based

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on sexual orientation is honestly mind-blowing to me because if there's someone willing to take a foster child who's lost their family or who has no family or nowhere to go into their home they should not be denied just by their preference on something that has nothing to do with their capability of being a parent or anything regarding such. I'm sorry, it's been a long day. I'm bad at public speaking. [LR478]

SENATOR ASHFORD: No, you're very good at public speaking actually. [LR478]

EMILE WIPPIER: I'm good if I'm... [LR478]

SENATOR ASHFORD: I'm not good at spelling either, so. (Laughter) [LR478]

EMILE WIPPIER: I'm good when I can ad lib and not go off a speech, (laugh) so. I was in there for four, maybe four-and-half months. I was lucky enough to find a foster mother who...I had gone through three separate interviews for foster parents, and the other two denied me basically just because I am gay, said they didn't want a gay child in their home. And finally after four months, I found a lovely 72-year-old foster mother who took me into her home, and she is the most amazing woman in the world and she is my mother completely. But I would have been able to find placement much quicker if same-sex couples were allowed to foster, and honestly it would have been more comfortable for me, being a homosexual (inaudible). There were a lot of questions I had to my foster mom and my foster family, I guess you would say, that they weren't able to answer; like it would have been a lot better, I want to say, if I had a role model that knew what I had been going through. But I mean a 72-year-old woman, she has no idea what a homosexual youth would be going through in these times. I mean, she tried her hardest. She was absolutely amazing. But...and I'm sorry, I don't have a speech to go off of. I'm kind of just winging it here, but. I know there are several people in foster care still that have not been placed because they are gay here in Nebraska and over in Iowa. But I know dozens of families that are trying to get their rights to have foster kids in their house. My sister was actually adopted by one in Iowa. We've known the couple for

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years. My father used to work for their father, and they ended up adopting my sister out, I want to say, two years ago. So she is a part of their family. She's aged out now, so. But it was just really a great experience for her because she got to be put with people that she already knew and was comfortable with completely. There was no awkwardness in the home. She knew their children. She knew the entire family pretty much. And I just thought it was great that she didn't have to...they weren't denied taking care of my sister just because of their sexual orientation. And I could say this a thousand times over. [LR478]

SENATOR ASHFORD: And I'm sure you have lots of stories, so we appreciate your candor. It's better than a written speech, trust me. [LR478]

EMILE WIPPIER: Because I tried coming up with one and I'm terrible at reading off... [LR478]

SENATOR ASHFORD: There are only a few good ones in human history, so.
(Laughter) [LR478]

EMILE WIPPIER: I don't know what it is, I can't read off something. But... [LR478]

SENATOR ASHFORD: The Gettysburg Address was good. [LR478]

EMILE WIPPIER: That's good. [LR478]

SENATOR ASHFORD: Anyway, thanks, Emile, very much for your...does anyone have any comments? Questions? Thanks, Emile, very much. Don't be nervous now. No. Let's...okay, does anyone else want to talk about this issue, the adoption-foster care issue? Anyone? Because if not we're going to move on to the bullying issue which is the next item on our list. And it's Ferial. [LR478]

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FERIAL PEARSON: Yes. Good. You did better than my aunt. She's known me my whole life. My name is Ferial Pearson, F-e-r-i-a-l P-e-a-r-s-o-n. And I've been an educator here in Omaha for 12 years now in the public schools. I'm testifying here today just to help me do my job better and to help other teachers do their jobs better and to make schools safer for all students. I've always worked around people who have been different from me, and I've always understood what it felt like to be treated as the other and to be treated as not good enough or to have my culture hidden from the curriculum and from the school. And I know the effect of that and I know that it made me feel as a person of color that I was not important enough to be published and important enough to be studied and important enough to be a representative of any community even though it wasn't explicitly said. However, in the LGBT community, that is explicitly said. I also don't have a written speech, so I'm just letting you know. Teachers are afraid of being perceived as LGBT. I've had so many teachers come up to me saying, listen, thank you for doing what you're doing. I can't step into a bullying situation because there's nothing in the policy that says that these particular students are protected. And I feel like if I step in, I will be perceived as being LGBT and my job might be in jeopardy. I, myself, have been called all kinds of names. I have been accused, even though I don't like that word, of being in the LGBT community because I stand up for LGBT students. But the reason I do it is because it is my duty as an educator to make sure that every student has equal access to education in my classroom, that they are able to learn just as well as any other student. And I know that if you are not feeling safe and in a classroom, according to Maslow's hierarchy, there's no way you're going to be able to pay any attention to what I'm teaching you. I can have the greatest lesson. I can polka in the classroom and teach you how to create a metaphor, but if you're worried about how you're going to get from my classroom to your math classroom, you're not going to understand or be able to process what I'm trying to teach you. And so I believe it's my duty as an educator to make sure that everybody in my classroom feels safe, feels respected, feels celebrated, that they are welcome there, and that they have something to provide the other students. Students learn so much more from each other than they ever will from me. I also want to point out that a lot of my students have been targeted

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not because they are in the LGBT community but because they're perceived as being in the LGBT community, whether it is a boy who is a little bit more effeminate than other boys. He may be completely interested in girls, and I've had kids who really are, and they let me know, you know. But they're a little different, and so they are called what is the worst word you can ever call somebody is gay just because they're slightly different. So this is about not just the safety of the LGBT students but the students who are perceived as being LGBT. I know that teachers have said if there was something in the policy that specifically talked about sexual orientation, gender identity, gender expression, I would be more likely to step in and say something because I know that the policy covers me and I know that I won't be talked about, you know, in the staff lounge or somebody might report me as being a part of the LGBT community and have my job be in jeopardy. It's about safety first. I've had students before who...I had a male student who came to school in heels, little suede booties. He looked great. They were not too crazy. I mean, he was dressed appropriately according to the dress code, but he was told to go home and change because he was causing an academic disruption. And he made a great point. He said: Miss, if I wanted to have an academic disruption I could have come in, in full drag, and I didn't do that. And the lady over there with her entire cleavage showing, she is causing an academic disruption, not me. He had a great point. But bullying causes an academic disruption. When a student is bullied, they cannot concentrate in school. So many students skip school, are not there to actually learn. If they are there, they're not paying attention because they're worried for their own safety. I know according to national surveys, nine out of ten students across the nation report harassment based on LGBT status or perceived LGBT status. So it's about academic disruption. It's about giving a message to teachers and getting a message to students that discriminating upon certain characteristics or being in a certain category is not okay without making the word "gay" a taboo word in the classroom. I know I hear and lot of people hear "that's so gay" in the classroom. And I've had teachers come to me and say, well, what do I do. Their heart is in the right place but they don't have any training as to what to do in that situation. Teacher education colleges don't address that, professional development within schools don't address that, and yet this is something

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that is hugely affecting how well students learn, whether or not the school meets AYP when it comes to No Child Left Behind. You can't score well on a standardized test if you're not there to take the test or if you are not concentrating on the test in the first place, you know. And so I've been in that position where a teacher will ask me: Well, what do I do? And I'll give them strategies and they're really easy, but they're just afraid to even ask. Students don't feel any safer with blanket bullying policies, and that's been shown nationwide. There are ten states in the United States right now that do have enumerated policies, and those students have reported feeling safer and having fewer instances of harassment. So I really feel that it's important to not shy away from naming the problem. If we want to fight the problem, we have to name it and we have to let students know that we're not ashamed of who they are. I had a student come to me who was not one of my students. He was a friend of one of my students. I should mention that I was a Gay-Straight Alliance sponsor as well for a long, long time. So one of my GSA students called me on a Sunday night, which was very uncharacteristic that you know not to call me unless it's an emergency, but she said I have this friend in another school. There's no GSA there. He hasn't come out of his room for two days. He was in the bus on the way home on a Friday. Students started throwing stuff at him, calling him names as usual, but this time his friends chimed in. And he could not handle that, so he stopped the bus. Got off the bus. Went into his room and didn't come out for two days. So his sister got very worried, called my student. And he is a Hispanic student. He is undocumented. His family pretty much told him if you ever come out, we're kicking you out, we never want to see you again. So he was not out of the closet, but that was the message he was told. So she brought him over to my house, and the first thing he said to me is: Miss, you don't think I'm disgusting, do you? And I said: Well, why would you ever think that? And he said: I've never met a grown-up who thinks it's okay for someone to be gay. So hiding the issue gave him a very clear message that it was not okay for him to be who he was. Any teachers he might have had who were out of the closet were not comfortable being who they were, and so how could he ever imagine him...he wants to be a special education teacher, how could he ever imagine himself as a special education teacher if he had never seen anybody like him in that position? By

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the end of the night he was eating cookies and drinking cocoa and felt a lot better, and I took him to a Proud Horizons meeting. But prior to that day, and he was 16 years old, he had never met an adult who told him it's okay. And I find myself in a position where I'm the only adult that some of these students ever meet who say: It's okay the way you are; I want you to be in my classroom; you have the same right to an education as anybody else here and we're glad you're here. I'm willing to answer any questions. [LR478]

SENATOR ASHFORD: Okay. Any questions or comments? [LR478]

SENATOR NORDQUIST: So the policy that we enacted on school bullying a few years ago, did you see any positive impact of that, or, I mean, do you think that the fact that there wasn't enumeration really impact... [LR478]

FERIAL PEARSON: I didn't see a positive impact very much. I think if there is one, there should also be training for teachers early and often, especially for teachers who have been in the profession for a while who aren't aware of how to deal with that. But, no, I didn't see any...very much of a change. [LR478]

SENATOR NORDQUIST: Thank you. [LR478]

SENATOR ASHFORD: Are you...you teach English, I'll bet. [LR478]

FERIAL PEARSON: Yes. [LR478]

SENATOR ASHFORD: Both because you speak so well and because you talked about teaching metaphors, which I've never...I always get those mixed up with allegories. (Laughter) [LR478]

FERIAL PEARSON: That's easy to do. [LR478]

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SENATOR ASHFORD: What? It's easy? [LR478]

FERIAL PEARSON: It's easy to do. [LR478]

SENATOR ASHFORD: Good. Let me...is it...you teach in Omaha Public Schools, is it?
[LR478]

FERIAL PEARSON: No, I'm in Ralston. [LR478]

SENATOR ASHFORD: Okay. [LR478]

FERIAL PEARSON: But I was in Omaha Public Schools, yes. [LR478]

SENATOR ASHFORD: Is there a policy that prohibits gay and lesbian teachers?
[LR478]

FERIAL PEARSON: There is not. However, in all other districts there is. [LR478]

SENATOR ASHFORD: There is? [LR478]

FERIAL PEARSON: Um-hum. And I've worked with teachers from many, many different districts who have asked me to help start a Gay-Straight Alliance club in their school. They've been approached by students. So I've worked with students and teachers from many different districts. [LR478]

SENATOR ASHFORD: You mean...hold it. There's...OPS has a policy against gay and... [LR478]

FERIAL PEARSON: It just says in the nondiscrimination policy that sexual orientation is

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one of those enumerated classes. [LR478]

_____ : Protections. [LR478]

FERIAL PEARSON: Protected. Yes. [LR478]

SENATOR ASHFORD: Oh, protection. Okay. Phew! Okay. Oh, my! All right. [LR478]

FERIAL PEARSON: (Inaudible) in your district. [LR478]

SENATOR ASHFORD: Okay. Thank you. [LR478]

SENATOR NORDQUIST: Could I just ask real quick? [LR478]

SENATOR ASHFORD: Yeah. [LR478]

FERIAL PEARSON: Yes. [LR478]

SENATOR NORDQUIST: We've seen significant...and I assume it's equally if not more of a challenge with the LGBT students but with cyberbullying, can you speak to the impact or what you see regarding cyberbullying in this... [LR478]

FERIAL PEARSON: Cyberbullying is huge. And schools aren't sure how to deal with them because it happens off school grounds a lot of times where you can't prove where it happened. But we do have students who, you know, their profile is hacked by another student. So another student pretends to be them and then posts all kinds of things on their profile. And when it comes to LGBT issues, I've had students who have come back who were not gay, somebody else hacked into their profile and then posted all kinds of things to make them look like they were gay, and as a result they experienced a lot of harassment. [LR478]

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SENATOR NORDQUIST: Sure. Okay. Thank you. [LR478]

SENATOR ASHFORD: Thanks. Thank you very much. Ben, you have to speak at 10:00. I was... [LR478]

BEN GRAY: I don't have to. You can go ahead and have some other others. I just wanted you to know I'd be here by 10:00. [LR478]

SENATOR ASHFORD: Okay. Ellen. We're getting to employment now. Ben, why don't you come on up. We're going to talk about the employment issue and how it relates to these issues of employment. So that's your ordinance, so we'd love to hear about that and how that's going and whatever else you want to say. [LR478]

BEN GRAY: Well, first of all, let me identify myself. I'm Ben Gray. I live at 5425 Fort Street in Omaha, Nebraska, 68104. I'm also a city councilman for the second city council district. And I'd just open with a couple of general comments and then I'll answer any specific questions that you all might have. But part of the reason for...first of all, my involvement in this and then moving legislation forward to address it, I had heard from a number of members of the LGBT community. And the concerns were there had been legitimate issues as we talked to law enforcement in a number of different areas, including Lincoln and Omaha, that there are issues where the LGBT community has been harassed, has been in some cases discriminated against on a variety of issues. There is concern in the workplace that those who may want to come out are afraid to do so. Those members appear to me to be significant. I had had private conversations with a number of folks who had worked in the private sector who were gay who were afraid to come out because there were no protections for them as it relates to the issues of discrimination. And so I took that issue on and I addressed it. Now what you're going to run across here is we have a concern and we have an issue here where some would suggest that this is a religious issue, and I didn't look at it like that and I couldn't look at

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it like that. I looked at it from the perspective of the constitutional issues because the Fourteenth Amendment to the Constitution is clear about what our duties and responsibilities are and all of us took an oath to do just that. And so those were the reasons why I moved the legislation because you have theological groups that don't agree on this issue, and both of them used the same book to make their argument. So when you have that kind of a situation in place, I think you have to go to a third party; and in this particular instance that third party was the Constitution to address this in a more fair, concise, and reconcilable manner. It doesn't take away the rights of anyone. It doesn't take away the voice of anyone. What it simply says is that you will be...that citizens, whether you be gay or straight, have a right to protection in the workplace and in public accommodations. And that's all it says. It was very clear. It was very simple. It didn't get into housing. It didn't get into other areas. It didn't get into gay marriage and all of those other things. What it simply said was what I think we have the authority, but more importantly, the obligation to do, and that is to protect all of our citizens from discrimination of any form. Discrimination ought to be unacceptable to all of us under any circumstances. There are no...if someone gets up and thinks that somehow discrimination against a certain group of people is okay, then where does that slippery slope stop? You know, when does discrimination not become okay? And which groups? And how do we decide and all of those sorts of things. I think it's clear to me that when you have differing opinions on this issue from the same individuals who worship allegedly what they say is the same God, then the obligation then is for us as legislators to look at what the Constitution says about this matter. And the Constitution, the Fourteenth Amendment, is clear. If you were born or naturalized in this country, you have the right to life, liberty, and property with due process and equal protection under the law. It's very simple. It's very clear. It's unambiguous. And those are the issues that I think...that is the way I think we need to, as legislators, to continue to look at it. As those of us who practice certain religions or whatever, we have that right to feel however we need to feel, but we don't have the right to impose those kinds of conditions on the public. We have an obligation as legislators to...we took an oath and that oath was very clear that we would defend the Constitution of the United States and this state against

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all enemies foreign and domestic. We have agreed to that. We signed off on that. We have an obligation to uphold that. And those are the reasons why I brought forward that ordinance. Those are the reasons why I think the ordinance was prudent and appropriate. But I also think that the state ought to have...the state ought to play a role in this, quite frankly. As a matter of fact, the state ought to be the leader in this, quite frankly. And so those were some of the reasons why the ordinance was introduced. It continues to be clear to me that at the end of the day we've not had very many complaints. People were concerned about this was going to be a thing where it would be litigated back and forth and complaints would roll in like water from a mighty stream or whatever. That is just not the case. We have not seen any and nor has there been documentation that other folks' rights have been curtailed or cut or eliminated or whatever the case may be because of this ordinance. There is no proof of that anywhere, and I don't think...but I think the state has the obligation to play a role in this. Now the city council here and in Lincoln took the initiative to get started, but I think this really belongs in the state level, and the state needs to say for a number of reasons. Now we look at this as some sort of a social issue, but the fact of the matter is this is also an economic issue. If this is...if Nebraska and Omaha don't appear to be welcoming places for a certain group of people, then we, as one of the smaller states with one of the smaller populations, run the risk of being left out and people choosing to go somewhere else than come here because of our policies and practices. So we have to look at it as a constitutional issue and we also have to look at it as an economic issue; and those were the two ways that I looked at it. I'm not opposed to nor do I...I think the church has a role to play and I think the church has an important role to play. But in this instance when you have even church members that disagree, even church denominations that disagree, I think you have an obligation as legislators to look at the final arbiter, and I think the final arbiter is the Constitution of the United States and the state of Nebraska. Thank you all. [LR478]

SENATOR ASHFORD: Thanks, Ben. Colby...Senator Coash. [LR478]

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SENATOR COASH: Thank you, Senator. Thank you, Councilman. Policy aside, I just...as your experience here in Omaha with the ordinance that you passed, because it's just an Omaha city ordinance... [LR478]

BEN GRAY: Yes. [LR478]

SENATOR COASH: ...and my city of Lincoln, we're dealing with this issue as well. I just want to ask you from a practical manner how your ordinance is working. I work with a company who's headquartered in Lincoln, has an office in Lincoln, but also has an office here and an office in Kearney. The paychecks are generated out of Lincoln, but there's a couple hundred employees right here in Omaha. [LR478]

BEN GRAY: In Omaha. [LR478]

SENATOR COASH: How does that work when you've got...so there's a company with a certain amount of employees who are protected. Is it because of where they work? [LR478]

BEN GRAY: Yeah. I guess I'm not understanding your question. [LR478]

SENATOR COASH: Well, my challenge is you've got one employer with employees in three different communities. [LR478]

BEN GRAY: Okay. [LR478]

SENATOR COASH: Okay. So because that employer has employees in three different communities, you've got one group of employees who have a different protection... [LR478]

BEN GRAY: Yes. [LR478]

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SENATOR COASH: ...under the law. [LR478]

BEN GRAY: Well, they have no protection under the law. If they're GLBT, they have no protection in certain places. [LR478]

SENATOR COASH: But the employees who work in Omaha are protected. [LR478]

BEN GRAY: Yes. [LR478]

SENATOR COASH: Even though their company is in Lincoln. [LR478]

BEN GRAY: Yes. [LR478]

SENATOR COASH: Okay. Have you had any feedback of...I mean, in Omaha, I mean, I always hear Ralston and, you know, that's Omaha to me, but that's from my Lincoln eyes. (Laughter) You say that to Ralston. Being that Ralston and Gretna is almost Omaha anymore is a little bit, in your ordinance, what was the definition? And was it just if the work is completed in the Omaha community or if the employer was in the Omaha community, because I would assume you have employers in Ralston who employ people who go out into Omaha? [LR478]

BEN GRAY: Yeah. I think I understand your question. Let me answer it this way. If you have employees in Kearney...and again this is why I think the state needs to take this issue up and address it. But if you have employees in Kearney, then the rules of Kearney apply. If you have employees in Omaha, then the disclaimer for discrimination applies in Omaha. And in Omaha we have several more categories of protected classes than the state has. We focus on GLBT community, but there are at least three other if not more protected classes that exist within the Omaha community than they do at the state level or in some other municipalities within the state, so, you know...but the rules

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of Omaha apply to the rules of Omaha. If you're an employer who will employ...if your office is out of Lincoln but you employ in Omaha, the rules of Omaha apply. And in this particular instance, I've had...to answer the second part of your question I think, has there been any complaints. We've not seen any complaints. We're not seeing any litigation. We had an inquiry once to the human rights and relations department but it was just an inquiry, it was not a complaint. To this date, we have not had any significant cases. And if there are, what the human rights and relations department attempts to do and has been successful in vastly more cases than not is settling the dispute before anybody has to go to court and money is spent on either side. [LR478]

SENATOR COASH: Okay. Thank you, Councilman. [LR478]

SENATOR ASHFORD: Yeah. Well, I applaud your and the city's efforts on this matter and certainly support what you've done, Ben. And I don't know about whether or not we will be able to convince enough people to do this statewide now, but it's certainly in my view something we ought to continue to bring to the attention of the Legislature, so. [LR478]

BEN GRAY: Senator Ashford, I think you're right. First of all, I don't know that the state is ready. Even if they're ready to take it up. I'm not sure that you're going to get enough votes to get it passed, quite frankly. [LR478]

SENATOR ASHFORD: That doesn't mean we can't try. We tried other things where we don't get enough votes. [LR478]

BEN GRAY: (Inaudible) Yeah. I mean, it doesn't mean, first of all, that you don't try. And, secondly, I think you have to impress upon your colleagues they need to look around the country at what's going on. [LR478]

SENATOR ASHFORD: Yeah. I agree with you. And I think it was the right move for

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Omaha and I support it, so thank you. [LR478]

BEN GRAY: Okay. [LR478]

SENATOR ASHFORD: Thanks. [LR478]

BEN GRAY: If there are no other questions, thank you all for convening this hearing and thank you for your time and attention on this matter. [LR478]

SENATOR ASHFORD: Okay. Anybody else? Well, we have others to talk about employment. Shane...Shane Strong is here. [LR478]

SHANE STRONG: Good morning. Did you want me to wait for Senator Nordquist to come back or should I just... [LR478]

SENATOR ASHFORD: Not necessary. [LR478]

SHANE STRONG: (Exhibit 6) All right. So my name is Shane Strong, S-h-a-n-e S-t-r-o-n-g. I live at 2418 Ohio Street here in Omaha. And I'm here today to talk to you all about two issues that are germane to me as a veteran and as a brother of a gay brother. First of all, my wife and I are veterans. We've served four years in the United States Air Force. We served in Afghanistan and we also served under "don't ask, don't tell." And I've heard a lot of talk about that today. Our job was specifically to speak Arabic. And that's something that appeared on The Daily Show show after 9/11: 75 linguists--Arabic, Pashto, Farsi--they were discharged from the military, not because they were inefficient at their job but because they were outed. So I've been to the mountain top. I've seen workplace discrimination. I've seen its effect on our mission. And to be quite frank with you, flying into a war zone I don't care if the person next to me is straight, gay, whatever, I just want to make sure they can do their job and they can do it well, because at the end of the day, that's what keeps me safe; it's what makes

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the mission work. And my wife and I, we sat down last night and we were talking about our experiences with friends, colleagues, under don't ask, don't tell. We were talking for half an hour, so I won't take up a lot of your time by sharing all of those stories. But something that I heard another testifier talk about I think is an important issue and something that needs to be explained, something that happened to...not somebody I know, but it happened prior to us going to DLI, which is the Defense Language Institute, where they train you in language. There was a young airman who had a stigma associated with him, but I liked him. So the rumor mill started: he's gay. This particular airman as it turned out later during his discharge, he was straight, but he just had enough of it when he came back from chow hall they (inaudible) board "fag." You know, people would always mess with him. And finally he had enough and he went to his sergeant and said, I'm gay. He broke the second rule: don't tell. And the sergeant didn't believe him, so he asked, are you really gay? And so then this big debacle happens, it winds up becoming this huge witch hunt at DLI. They actually did get to the bottom of that issue, but ultimately outing other service members. And that was a horrible thing. It wasn't the right thing to do. "Don't ask, don't tell" no longer exists and our military no longer discriminates against gay, lesbian, and bisexual service members. Today, gay, lesbian, and bisexual service members are returning home. Statistically speaking, a veteran will take their life today. Our generation is having a heck of a time. And you also heard information about suicidal ideation of homosexuals. I mean, that's compounded if you're a vet, and 10 percent of the United States population is veterans. So this is an issue of the veteran community. And I think it's a real shame when veterans return home after fighting for us and our protections abroad and they don't get the protections that they deserve here at home. So all veterans are heroes. And closeted service members that I served with, they were squared away, they were intelligent, they did their job well, and they deserve respect, the same respect as straight veterans. So help for the LGBT community is help for the veteran community and the veteran community needs your help. So I hope that you work on that. An equal employment bill would help protect veterans and the LGBT community. My father was a two...but not just the veteran community but also families of veterans. My father was a two-tour Vietnam vet,

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25 years in service, airborne. He had five kids. He happened to have gay sons. If my father were still here today, he'd be here telling you, my children deserve equal employment opportunities. As it so happens, my father is not here so I'm here telling you, my brothers, my sisters, they deserve equal employment opportunities, which leads me to my second point. I'm an older brother. As Nebraskans, we pride family values, respect, hard work, honesty, looking out for one another. I am my brothers' keeper. I will stand and defend my brothers, and discrimination in the workplace affects my family. I ask you, what would you do if it were your family? Would you cast the first stone or would you draw the line in the sand? I ask you to stand with me and defend my brothers and my sisters in their employment opportunities. It's the right thing to do, it's the family thing to do, and it's the Nebraskan thing to do. And that's all I have. Do you have any questions? [LR478]

SENATOR ASHFORD: Thanks for your comments. It's very, very good. The next testifier is Jane. Jane Florence is here. Oh, yes, Pastor. Your church used to be in my district. [LR478]

JANE FLORENCE: Oh, yes. [LR478]

SENATOR ASHFORD: But that's okay. [LR478]

JANE FLORENCE: (Exhibit 7) My name is Jane Florence, J-a-n-e F-l-o-r-e-n-c-e. And I too want to thank you for having this hearing and for listening and entertaining this opportunity. I speak from a faith perspective. And I thank Ben Gray who also did so, as well, in addressing many of these points also. We believe it's important that a faith perspective is heard because so much of the opposition to equal rights for gays, lesbians, bisexuals, and transgenders comes from a faith religious foundation. So it's important that voices that are supportive of all people are heard as well. My faith practices are grounded in scripture as are others from the Hebrew text, which we refer to as the Old Testament so much. It's justice that's supposed to roll down like waters

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and righteousness like an ever-flowing stream, not discrimination. [LR478]

SENATOR ASHFORD: He was close. [LR478]

JANE FLORENCE: He was very close. [LR478]

SENATOR ASHFORD: I mean, you're a layperson and I thought...and that, by the way, was a metaphor not an allegory. (Inaudible) Is that correct? All right. Good. Sorry. [LR478]

JANE FLORENCE: That's fine. [LR478]

SENATOR ASHFORD: I just wanted to get us all together on this. [LR478]

JANE FLORENCE: Yes. The Hebrew prophets were warning of the downfall of their nation if the marginalized and the vulnerable were not cared for, and that is the context in which those words are found. And our Christian scriptures continue that same message. As Jesus began his ministry, he claimed his mission statement as to bring relief from the oppression and liberation to the captives. And the stories of Jesus continue to tell of a man who violated the social and the religious laws of his day in order to practice and include all of those that his culture had deemed unclean. And so it is because the entire message of the scriptures that I understand from the Old and the New Testament that I work for equality and justice for all people. There are those who would use scripture as you referenced as a justification for discrimination. In particular, there are seven verses that are taken out of context with no regard to the original language in which they were written or the cultural circumstances in which they were applied. And those verses are used to condemn and to marginalize, to scorn and to reject people who are also made in the image of God. And there are those who claim that they want to use those scriptures as religious liberty to discriminate. We see history repeating itself. When there was controversy in this country regarding the status of

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slaves, slaveholders and their preachers cited scripture verses: Slaves obey your masters. When there was a struggle for women's rights in this country, those who wanted to keep women in their places cited scripture verses: Women submit to your husbands. We can find scripture verses that would uphold marginalization of disabled persons, children, those with physical limitations, blemishes upon their faces. Scripture could be used to uphold a religious liberty for polygamy and child sacrifice as well. It says in the scripture that children who are disobedient to their parents should be killed. I could give a lengthy attention to the clarification of the scriptures that are used which some condemn homosexuality for all persons; but as Ben pointed out, that is not our task here today and that is not your work. Legislation is not intended to make theological judgments or verdicts. Our Constitution allows each of us to discern those for ourselves. Legislation is intended to uphold the Constitution to provide equality for all and individual pursuit of life and liberty and happiness. Legislation does not affirm one religion over another or one religious viewpoint over another. This country does not allow a man to beat his wife in the name of religious liberty, nor do we allow discrimination based on race or creed or gender in the name of religious liberty; neither should we allow those whose religious views condemn gays, lesbians, transgendered, and bisexuals to discriminate. So I ask you to do all that you can for care for all and equality under the law. To speak for the gays and the lesbians who often live in fear because of who they are, who they were created to be, who live in fear because of who they love and honor and cherish as adult life partners, and who live in fear that they will lose their job and their health insurance and their provision for their families, please allow them the same rights under the law that all others have. Thank you. [LR478]

SENATOR ASHFORD: Thank you, Jane. Any comments or questions? Thank you for your comments. Tyler. [LR478]

TYLER RICHARD: (Exhibit 8) Thank you. Good morning. My name is Tyler Richard, T-y-l-e-r R-i-c-h-a-r-d, and I am president of Outlinc, the group in Lincoln that brought together dozens of faith leaders, small business leaders, civic leaders to work on the

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fairness ordinance in Lincoln. I'm here today to address a couple of quick points, first, on some things that Councilman Gray touched on, some of the realities of what these policies look like when implemented. In Lincoln, there have been five protected classes excluding the ones addressing the fairness ordinance that have been added without any initiative from state or federal law. So the situation that you were asking about, Senator Coash, has been in existence for a long time without congruency between municipal, state, and federal law impacting employers that have businesses in different locations. Even with that, small business owners according to an October 2011 study said, 67 percent of them said that there were no costs associated with implementing these kinds of nondiscrimination policies. And of those that did say they had a cost, the vast majority of them said that the cost was negligible, less than 1 percent of their budget. So this is not a situation that impacts the bottom line of small businesses in a negative way. In fact, most small businesses and most Fortune 500 companies say that having these policies actually improved their business and the employee productivity. I think it's important for us to know that while the PowerPoint that we saw were very fancy, that these statistics aren't simply statistics, that there are stories behind them. And so what you've been handed is a packet of stories that we collected in Lincoln to talk about the need for the fairness ordinance. In there you might be able to understand why someone who goes to work and gets called the "Tranny" at the gas station every day, what that kind of environment and discrimination does to someone's mental health and ability to be a good employee, that these are situations where one of the last stories indicates someone did not come out to their employer until she came to work wearing an engagement ring. And then her coworkers who she had a fantastic relationship with were asking her, you know, you have an engagement ring. The employer asked, tell me his name. The employee, she replies, well, actually I'm going to get married to a woman. And that's when the employee lost her job, not because of flaunting sexual orientation but for showing up to work with an engagement ring, something that many people do. As the cover letter from these stories indicates, many times these stories are simply told at dinner parties, that they are told in friendly environments that take a somber turn. And for too long these stories have been told in that situation. I appreciate

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you having this hearing today because these stories need to be told in the public for people to understand what this discrimination does to people on an everyday basis. And I hope that you can look through those stories, share them with your colleagues, and understand what this kind of discrimination does to the day-to-day lives of people here in Nebraska. If you have any questions for me I'm happy to answer them. [LR478]

SENATOR ASHFORD: I don't see any. Thanks, Tyler. [LR478]

TYLER RICHARD: Thank you very much. [LR478]

SENATOR ASHFORD: Laura, Laura is next. [LR478]

LAURA BURHENN: (Exhibit 9) Good morning, Senators. Thank you for having me. My name is Laura Burhenn, it's spelled L-a-u-r-a B-u-r-h-e-n-n. I'm here this morning to testify in support of any and all movement to ensure that basic civil rights are extended equally to all Nebraskans, specifically that fair and equal treatment are ensured for our LGBT community in our employment matters. I testified in support of the Omaha equal employment ordinance back in March and will do everything I can to see that it is upheld in this city. As we all know, there's a movement to have that ordinance overturned and to have it put before a public vote. I don't believe that the rights of the minority should be subject to majority vote. And I wholeheartedly believe that it is the Nebraska legislator's job to apply these protections statewide, particularly as Senator Coash, you spoke about the differences between different cities and what protections are afforded to different employees in each of those. I'm a Washington D.C., transplant who now calls Omaha home. I have the unique background of being both a human resources professional with over a decade of work experience in both D.C. and Nebraska and I'm a musician in the band The Mynabirds. I have the honor of working with Saddle Creek Records here in town, touring internationally. And despite living most of my life in the D.C. area, I'm now known worldwide as being a Nebraska singer-songwriter. Why am I telling you this? Well, because I represent my community and it represents me. I cannot

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stand idly by while any member of my community is legally allowed to be discriminated against because of their sexual orientation or gender identity. It is not acceptable to me that any single member of our community lives in fear that he or she will lose their job and not be able to provide for their children if anyone at work discovers who they love--a thing that has absolutely nothing to do with how well they do their job. As a human resources professional, I will say this plainly: Employment decisions should be based on a person's ability to perform the functions of their job alone. A person's sexuality should never enter into any employment discussion. Currently, without legislation protecting everyone from this sort of discrimination, sexuality can be a factor in employment decisions, and that is an appalling employment practice. To anyone who fears an increase in retaliatory lawsuits, do you know how many lawsuits I saw in my eight and a half years practicing human resources in D.C., where these protections already exist? Exactly zero. As a matter of fact, I didn't have a single conversation with a fellow HR professional about lawsuits related to discrimination based on someone's sexuality. We discussed performance metrics, coached managers on how to help poor performers, and dealt with behavioral issues, violations of company policy, including dress code issues, sexual harassment, and terminations when they occurred, swiftly and evenly regardless of the employee's sexual orientation. I applaud your efforts to study discrimination that currently exists statewide. I think it's important to know the level of discrimination that we're dealing with to know how best to respond. But at the same time with the studies that already exists and the countless testimonies we've heard today and you might have heard privately from your own constituents, I also believe that expensive and lengthy studies on this matter aren't necessarily the best use of our taxpayer money or our legislative time. I think it puts off the passage of vital civil rights protections that are needed today. And further I ask: How many cases of found discrimination will be enough to convince the opposition that legal protections are necessary? A hundred? A thousand? A million won't be enough to convince some people. But I believe that one single case of employment discrimination is unacceptable. Every Nebraskan deserves the right to be treated fairly and equally in their place of employment especially. This is an instance, as I said before, where the rights of the minority should not be subject to

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the tyranny of the majority. As decent human beings, we need our community to commit to the golden rule. We can have our differences of religious belief, but publicly and professionally it should not negatively affect the way we treat one another. A lot of people don't think this sort of legislation is necessary in Omaha or on a state level. Some don't believe it's a civil rights issue. But I will quote Dr. Martin Luther King Jr., and remind us all that, "while it may be true that morality cannot be legislated, behavior can be regulated. It may be true that the law cannot change the heart, but it can restrain the heartless." Senators, you are in a position where you can help enact legislation requiring all Nebraskans to have a heart, and I ask that you to do everything in your power to do just that. Thank you. [LR478]

SENATOR ASHFORD: Thank you, Laura, very much. Questions, comments? Thank you. Ellen. Oh, Ellen, I'm sorry. Okay. Go ahead. Sorry, I was... [LR478]

ELLEN JAMES: (Exhibit 10) Thank you. Good morning and thank you so much for your time. My name is Ellen James; it's E-l-l-e-n J-a-m-e-s. I do have to admit that that is a pseudonym I use, and you will shortly know why. I'm bringing us back to the issue of bullying in schools, because I needed to be down the hall in district court for a last-minute hearing. So I apologize for not being in the right order, but I share with you today our family story and why this is so important to so many families. And I hope you will also gain some insight as to why it is so difficult for many, many families, especially of young children, to be in a position to come forward and tell their stories, out of the physical and emotional well-being of their children and their families as a whole. So my husband and I have three children, and we thought we had three boys until our middle son, at about 18 months, would start rifling through the kitchen drawers looking for towels to fashion into skirts or into long hair. And all of the things that he watched in terms of movies or played with toys were all, by all accounts in our culture, would be called girl-toys and girl-movies. And so it was all pink, all Barbie, all musical, all the time for this little boy that we called Ben. And the best way to describe his early years would be that he was a walking Broadway show; and didn't walk anywhere, he skipped; very

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articulate, sweet, and dramatic and theatrical little boy. And so as time wore on and he became more articulate, at about the age of 4, we started hearing things like: What about my girl parts? What about the fact that I'm a girl on the inside? What about my girl heart? And, of course, to my husband and me, who had never had any experience with gender identity issues, and we didn't know any transgender people, had no idea what this journey would be for our family. And so we just kept listening and just kept loving. And so when this child was to be school age, we in our infinite wisdom decided that we would send him to school early. We would send him to kindergarten early so that he could spend a year in the public school and get to know what those boundaries are, what those cultural expectations are, find out how far he could push the envelope in terms of his expression. And then we would send him again to kindergarten at the parochial school where his older brother already was. And so through those years...shared some art so that, basically, our child can tell the story for himself. So this first piece of art is from that first year in kindergarten. So the writing sample is, "My task is putting my princess blanket away." But in case you missed the blonde locks, he makes sure you know there's a wig present. During the first year of kindergarten at the parochial school, they were charged with drawing themselves with Jesus. And on the back of the handout it says, "God loves all children," in big, giant capital letters. And so with the utmost confidence of who he was, he drew himself pink and with pigtails and blue ribbons. In first grade then, they were charged with drawing themselves as a firefighter. And as you can see, he goes outside the lines provided to draw long hair. And I have to give kudos to the teacher, and I know it was a parochial school setting, but a little boy sitting next to him said, "Boys don't have long hair," and as she walked by and heard the comment she said, "Jesus did," and just kept walking. (Laughter) Then also in first grade, this was really the telltale sign for the teacher and kind of a culmination of what was going on and what we saw in our family. So this is a pen pal letter going to Kimball, Nebraska, no less. And so he draws himself as a boy, and then off to the side is a shadow of a girl with long hair, and it says: It's my girl soul. And the pen pal letter reads, "Dear pen pal, my name is Ben. I'm a boy-girl. I'm 7. My birthday is October 2. When's yours?" So again, the teacher, with great insight and thought about

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his psyche, said, "I think that's a little personal for the first letter," and then saved it for me for parent-teacher conferences. So it was about this time...so we've been dealing with this issue every day in our household from the age of 2 to 7. And at about that time it was when this child came to us and asked us to start calling him or her "Katie." And we did. And so we switched pronouns and changed names. And it was not something that we did on a fluke or, as I'll often say, a Tuesday morning, you know, slow breakfast over corn flakes: Gee, Ben, do you want to be Katie? This was something we had lived every single day in our household for many years at this point. So at that point we did abide by her wishes. And I will now switch and honor her as her affirmed gender.

Another little piece of art during first grade: I had gone out of town, and when I came back and this was waiting for me. And I must say, I don't share it just because she draws me as skinny, but it sure doesn't hurt. (Laughter) But this is the princess that she sees on the inside, and this is how she saw herself at that point in time, before she was able to fully transition to the world. But she knew on the inside, in her heart of hearts, that this is who she was. When she was 5, the pediatrician said that one of the ways that we might consider socializing this child was to remind him, at that time, that he had boy body parts. So, armed with that information, I went home one day and he wanted to take this cute little outfit to his girlfriend's house. And I said, well, maybe that should stay here. And he said, why? And I said, well, remember you have boy body parts. And he said, but I have girl parts too. And I said, you do? And he said, well, I have a girl brain, and that's a body part. So this is truly how this child saw herself on the inside. And then...so after first grade, being herself all summer, going back to school for second grade, and being called that "Ben" name and being referred to and thought of as a boy was a little more than she could take. So we had gone to a counselor about how to transition and had planned to approach the school about it, but, I will say, it's kind of like diet and exercise, and tomorrow is always a much better day to ruin your life, so I didn't get around to it fast enough. And so at one point she plopped down in the counselor's office and told this counselor: I'm really a girl on the inside; we're trying to figure out a way I can come to school as myself, and I want to know how to get a skirt. So God bless the counselor, who did not pass out, and said, "I think I'm going to call your mom,"

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which she did. And we had long conversations. And they became quite educated at the school about what this all meant and what is this whole concept of gender identity that is really foreign to people. I often say that when I first learned of it, it's kind of like finding out there's purple people: I don't have an opinion one way or the other; I just had no idea they existed. And so our family really did start from scratch, and she led the way in teaching us how to do this. So after she outed herself to this counselor in second grade, they worked on this project. And it was, what makes you the most angry, and how do you feel better? And so what makes her the most angry, even while she's still showing up every day at school with this given name Ben and a buzz cut, is when someone calls her a boy. And what happens, she gets angry and her heart beats fast, and to feel better she screams into a pillow. Part of that same project, then, are ways to calm down. And so she draws herself as a boy and says, "It's the disguise of Ben," and then draws herself as a girl and says, "Not the disguise of Ben, but the real me as Katie." And so as second grade wore on and we worked with the school, and at some point the higher-ups decided that this was not something they wanted to take on, and they uninvited her back to school. This was one of the projects that she worked on right before or as she was transitioning. And so it's "Tough Life to Easy Life," where she draws herself as a boy and then as a girl. So as the higher-ups decided that they weren't going to allow her to transition, they uninvited her to third grade at school; and we became quite invisible at the school and then became isolated in our neighborhood as well. The story went public, and at that point it got a little scary. And at first it was just local, and then a friend decided to send this story that ABC did locally to CNN; and it got picked up by stations all over the country, and then it was picked up internationally. And at one point we were being chased through our neighborhood; they were trying to find out where she lived. And I apologize, revisiting this is kind of tough. So we were forced, we felt, with no alternative, to move, with very little notice and planning, to find a safe school district, because we had enrolled her in a public school in our same district, but it wasn't too hard for the public to figure out where that school would be. And they started to get hate e-mails and hate phone calls about her attending there. So we felt that leaving and starting in a new school district was the only thing that would be safe for our family, and

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so we did. We uprooted everything and moved to a new school district in a new neighborhood. And I am very pleased to say that this is the fourth year now in the new school district. Katie is now 12; she's in sixth grade. She and her brothers are doing really well because they're in a safe district. But I know of far too many stories all across the state and in the country where there isn't a safe place. She just wants to go to school and hang out with her girlfriends, just like any other girl her age. And so this--when we told her she didn't have to go back to school anymore, a few days early, because of what happened with the international press--this is what she drew. And I said, "What is that?" And she said, "I just always want to remember the day I got to be myself." So that was the day, a little over three years ago, that she was able to fully transition everywhere in the world and be herself. And here she is today. And so I would implore you to understand that these are real lives and real families and the real children that are affected by all of these laws. And she's 12, but she's acutely aware of what's going on. And she's aware that Omaha has talked about it; she's aware that Lincoln has talked about it. And she'll ask questions like, why? Why would somebody not want me to have a job? What am I going to do? How am I going to support my family if I can't work? Mom, does that mean I'm going to have to move away when I grow up? So to talk about these children...or to talk about these people only as adults and not consider that they were once children and that our children are listening to everything that you do as legislators is naive. They are listening, and they're listening for those cues; and they're also, unfortunately, hearing all of the opposition. So you're in a unique position to stand up for them and to make sure that they know that they can be safe and they can go to school and they can have a job and they don't have to be on a mission to move away the minute they're old enough. And with that I thank you so much for your time. [LR478]

SENATOR ASHFORD: Thank you for your time. [LR478]

ELLEN JAMES: Thank you. [LR478]

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SENATOR ASHFORD: And thank Katie for her strength. [LR478]

ELLEN JAMES: I will. Thank you. [LR478]

SENATOR ASHFORD: Okay. Anyone else want...? Jim, are you going to...? Sorry about your physical issues, but, hopefully... [LR478]

JIM CUNNINGHAM: I'm not in the long term, I hope. [LR478]

SENATOR ASHFORD: No. Sounds like it. You're in good shape. [LR478]

JIM CUNNINGHAM: (Exhibit 11) Senators Ashford, Coash, and Nordquist, good morning. My name is Jim Cunningham, and I'm, in my capacity as executive director of the Nebraska Catholic Bishops Conference, am testifying before you this morning with regard to LR478. My name is spelled C-u-n-n-i-n-g-h-a-m. Our office is located in Lincoln, but we are a statewide cooperative organization of the three Catholic dioceses under the direction of the Catholic diocesan bishops. My testimony really is focused first and foremost on one part of the resolution. And that is subitem (6), described as "the need for an exemption for religious organizations." If it happens that one or more senators decides to introduce legislation similar to what we've seen in the past in terms of identifying sexual orientation and, as expressed in this resolution, gender identity as protected categories under the antidiscrimination laws, the Nebraska Catholic Conference will diligently and carefully consider the proposal, as we always have done. And at least part of that review and response, as has been the case in the past, will be, yes, absolutely, we believe that a comprehensive, adequate, effective exemption will be necessary in order to protect the freedom of religious organizations to minister and function in accord with their religious beliefs and moral teachings, as well as not to interfere with the free exercise of religion. Catholic teaching holds that all people are created in the image and likeness of God and thus possess an inherent human dignity that must be acknowledged and respected by other persons and by law. No one should

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be the object of scorn, hatred, harassment, violence, or unjust discrimination for any reason, including same-sex attraction and sexual conduct. The fact that one does not accept, condone, or approve of any specific type of conduct does not give one license to condemn or attempt to dehumanize any person. Nevertheless, the teaching of the Catholic faith on sexual morality makes an important distinction between inclination and conduct. It is a fundamental teaching and principle of the Catholic faith that human sexuality, while a voluntary activity, is a gift from God which is genuinely expressed and reserved for the sexual complementarity and mutual devotion of a man and woman in marriage. Therefore all sexual acts outside of the sacred bond of marriage between a man and a woman are contrary to and in conflict with God's creative plan and are morally wrong. This same is true of gender reidentification and reassignment. This teaching cannot be equated with unjust discrimination, because it is based on what we hold to be fundamental truths about the human person and personal conduct stemming from the natural moral law. In our view, we believe that the church, including its many instrumentalities and ministries, has a constitutionally protected right and a legitimate and compelling justification for statutory protection in the practice of religious faith and not to be coerced by public policy into undertaking any condition or action that either explicitly or implicitly accepts, approves, condones, supports, or encourages what it conscientiously believes is morally proscribed sexual conduct. And this includes the right to teach what the church holds to be the truth concerning homosexual conduct and to act as an entity consistent with that truth without the threat of governmental sanction or punishment. There are at least two other considerations that certainly weigh in this matter. We believe that they're contemplated by legislation, if it is introduced as indicated by LR478. One is our broader concern about religious freedom and rights of conscience of individual Nebraskans whose privately owned and operated businesses or enterprises might be impacted by the creation of a protected category based upon an individual's sexual orientation or gender identity. Now we see some distinction with the church as an institution, insofar as there is an institutional identity, integrity, mission, and ministry, and this is all readily identified within the sphere of religious freedom. But the religious liberty and freedom of conscience of individuals warrant significant

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consideration as well. How that can be considered and implemented is a dilemma, and we realize that and understand it. Yet we cannot help but think that constitutional challenges lie ahead if religious liberty and freedom of conscience, in the context of individuals, are not somehow accommodated legislatively. Our second, additional consideration going forward would be a concern about the vagueness and uncertainty that would accompany the introduction of gender identity as a protected category under statutes that prohibit and punish discrimination. We are not aware of any previous legislative record in which this idea has been considered. The practical nuances and repercussions of including this category seem to us both uncertain and far-reaching, both legally and socially, extending not only into private enterprises but governmental operations as well, including elementary and secondary schools. And on this point I just want to say that we would hope to be able to cooperate and work with the committee in some further research and study on exactly what this category would mean in terms of its implications under law. Thank you very much for your time and consideration.

[LR478]

SENATOR ASHFORD: Thank you, Jim. Any questions of Mr. Cunningham? Thank you.

[LR478]

JIM CUNNINGHAM: Just to make clear, Senator, the past introduction of legislation of this nature has included respect for the religious rights of religious organizations. And we would certainly hope that that would continue to be the case in the future. [LR478]

SENATOR ASHFORD: Thank you very much. [LR478]

JIM CUNNINGHAM: Thank you. [LR478]

SENATOR ASHFORD: Does anybody else wish to speak on any of these issues? Oh, my. Okay. Fine. Why don't we just come up one after the other. But let's try to, if we could...yeah, an hour or 50 minutes or...yeah. Those who wish to testify, could you

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come down to the front row. Let's just try to confine our comments to about three to four minutes, if we could, please. [LR478]

TIM BUTZ: (Exhibit 12) Senator Ashford, Senator Coash, Senator Nordquist, thank you for having this hearing. My name is Tim Butz, B-u-t-z. I reside at 2702 Fontenelle Boulevard in Omaha. I'm very interested in the concept of the employment protection, but I would also ask you to consider expansion of that into the area of housing. And I know that's a difficult leap; we tend to take things one at a time. But it's time that housing also get on the agenda. By way of explanation of my background, from 1980 to 1994 I was an employee of the Nebraska Equal Opportunity Commission; I left that job as the investigative unit director of the Omaha office. I then later worked for the Omaha Human Rights and Relations Department, the Fair Housing Center of Nebraska, the ACLU, the Nebraska Justice Center, which is one of the six offices of dispute resolution, mediation centers. And I'm now back at the Fair Housing Center. However, I'm here as an individual today; I'm not representing the center. Years ago I read this book called Catch-22. And Catch-22 explained to me what the hell had happened to me in Vietnam. It said...Catch-22 can best be summarized as: Denying the problem is the solution to the problem. One of the things...this is not the first time this whole issue has come up in front of the Judiciary Committee. When I was with the ACLU, we testified about it constantly. And one of the things that opponents often say is that there's no demonstrated need for these types of protections. The handout I gave you is from the Iowa Civil Rights Commission's most latest annual report, which covers through 2011. And since 2007 they have had protections for both gender identity and sexual orientation in their housing law and in their employment law. And if you look at the numbers, you'll find that it starts out slow the first year; they don't have many complaints. But especially in the area of employment, the numbers grow over the years. Right now about 5 percent of the complaints processed by the Iowa Civil Rights Commission have to do with either gender identity discrimination or sexual orientation discrimination. So there is some objective data from a neighboring state to show the need for such protections. We can't find that here; you know, the Nebraska Equal

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Opportunity Commission isn't capturing those numbers, because anytime they get a call about potential discrimination occurring based on gender identity or sexual orientation, they have to tell the people, "Well, it's not in state law; there's nothing we can do for you," and, in effect, "Go away; don't bother us." They don't capture that data. Even my own agency, we don't capture that data for Nebraska residents, because, again, there's nothing that can be done to offer any services or any protection. So I wanted to appear here just kind of as a preemptive strike on this idea that there's no data out there to show a need. The data exists in Iowa; you know, when 5 percent of the complaints you're getting are based on one dynamic, you've got a problem, and it's a problem that needs to be addressed. Businesses in Nebraska will live by the law. If you tell them that they're not going to discriminate, there's a great preventive measure in place there. Tell people what the rules are and they'll live by them. And, yeah, maybe 5 percent isn't as huge as the number of claims of race discrimination or disability discrimination, but it's still discrimination. And it's still people that pay their taxes, live by the rules, and expect government to do nothing more than protect their rights. So I just wanted to put these figures in front of you, and I'm going to close with that. If there's questions, I'd be glad to take them. If not, thank you. [LR478]

SENATOR ASHFORD: I don't see any, but thanks for all your work in housing for all these years. [LR478]

TIM BUTZ: All right. [LR478]

SENATOR ASHFORD: Okay, next testifier. [LR478]

STEPHEN STOUT: (Exhibit 13) My name is Stephen Stout, S-t-o-u-t. I live at 1213 South 27th Street, here in Omaha, Nebraska. In my brief report I have two basic questions for us to consider. Is homosexuality a choice? The answer to this question has great implications to this matter at hand today about making this a civil issue. We need to be listening closely to our medical professionals with their recent advances in

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the medical field and DNA discovery. We need to be ready to act upon the sound and concrete findings that we observe here. We also need to be listening closely to the homosexual population. If homosexuality is not a choice, then we should find a constant state of homosexuals being homosexuals for their entire life. Is this true, or do we find many examples of changes in sexual preference over time? Who are we really giving rights to? That's my second question. Yes, we want to put down prejudice, discrimination, and hostility. Yes, we want to show much love, compassion, and respect to all. By giving special rights to some, we need to be careful that we are not taking away the rights and freedoms of others. Could it be that by extending the rights for a relatively small but important group of LGBT people we are actually taking away many more rights to a much larger group of people? And if so, is this really what we want to do? Please understand, we love the LGBT people very much. We must let this issue draw us all closer to God as we seek him in the truth of his word for direction as we move forward. Thank you. [LR478]

SENATOR ASHFORD: Thank you. Thanks very much. Any comments or questions? Seeing none, thank you. Next testifier. [LR478]

MATT KLANG: Good morning, I guess. My name is Matt Klang, K-I-a-n-g. I live at 3220 Farnam Street, Number 2813. I'm 33 years old as of yesterday. I am a gay male. There's nothing different from that statement 33 years ago as it is today except the fact that I will state that loud and proud today. I was born into this world; I have a Catholic family. My parents, we don't speak--I spoke to them for the first time yesterday in three years--because they don't accept me for being a gay male. On that note, my voice was suppressed growing up because I was gay. And I knew that growing up gay in a Catholic family I would be ostracized and kicked out should I come out. They did so to my sister when I was a sophomore in high school, so I learned to suppress that from a very young age. And hearing people think that it's a choice...it wasn't a choice. I joined the military when I was 17 years old. I served under "don't ask, don't tell" in 1997, so that wasn't a surprise to me when I had to try to hide that. The fact was that my voice

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was suppressed yet again because I was bullied, not necessarily bullied from the fact that they knew, because I obviously was not out, but the fact that they would make the gay comments and the gay jokes, even though I graduated top of my class at basic training, distinguished honor grad at advanced school training in '98. Yet I couldn't fight back, just tell them, hey, these gay jokes are ridiculous; they don't have any merit here. Luckily, "don't ask, don't tell" has been repealed, and people going forward can join the military and be who they want to be. My parents also taught me about foster care when I was younger; we had many foster kids growing up. So seeing the issue with Nebraska and the foster care system not allowing it and using "don't ask, don't tell" as their policy, it sends nerves up my spine, because if the military can overturn it, we have no need for it to be in the Nebraska--not in the statute or anything--it was just policy; it's ridiculous. None of those foster kids...all they ever wanted was a family to go home to. We did emergency care, so a lot of times we would get kids, midnight, 2 or 3 in the morning. One of them, Chelsea, she is now 17-18 years old, we had twice. We were going to adopt her when we were younger. My parents decided against that. She still speaks of me as her brother, even though we only had her for about three or four years at the time. But more than that, I don't understand how people could deny wanting a foster kid to go to anybody but just a loving person to share with. Knowing that my family isn't necessarily the unconditional lovers that I thought they were, I still understand what family and love and respect for each other is. And I hope that passing these laws or looking into these laws will bring that to everybody in this world. So thank you for your time. [LR478]

SENATOR ASHFORD: Thank you. [LR478]

JENNIFER SHORT: Well, almost good afternoon. Senators, my name is Jennifer Short, J-e-n-n-i-f-e-r S-h-o-r-t. I live at 3425 JoAnn Avenue in Bellevue. I was born and raised in a farm in Winthrop, Iowa. I'm a transplant to Nebraska as of 2003 via the United States Air Force. I have retired from the Air Force since then, and I am now a student senator at UNO and am going to school full time. I am studying psychology and wanting

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to get into graduate program work for PTSD counseling eventually, hopefully. I'd like to relate that I am not representing the United States Air Force or the university in this capacity; I'd just like to share some of my experiences. As soon as I joined the United States Air Force about 11 years ago...I served during the heart of "don't ask, don't tell." I'd like you to know that I identify as a heterosexual female, but I consider myself an LGBT ally. And, you know, born and raised in a small town in Iowa, a very Roman Catholic community and family, I was also raised with a distinct sense of right and wrong. My family taught me to stand up for what's right and stand up for equal rights for everybody. When I was an element leader in Monterey, I served with Mr. Strong. He served under me in Afghanistan. And I also served with Congressman Wyatt. I had the distinct honor of serving with a lot of amazing and remarkable individuals. And as a leader, I ended up resigning my leadership position due to the fact that several fellow leaders of mine were being blackmailed on their perceived and/or actual gender identity. Under "don't ask, don't tell" I was rendered pretty much useless and futile to do anything about it, because had I gone up the chain of command with these issues, I would have essentially signed their discharge paperwork. It still hurts my heart immensely to this day that I had to stand by idly while such atrocities were committed against such amazing Americans. I was also at DLI when the witch hunts that Mr. Strong talked about were going on: 45 Arabic linguists, many of whom I worked with. I went to DLI in August 2001, so I was there during September 11. And this happened shortly after September 11. A very critically manned field was left even more critically manned because we discharged so many Arabic linguists based on an arbitrary fact such as who they love. I also lived my life in a lot of fear because of the perceived connotations of my representing and taking care of my colleagues and cohorts as brothers and sisters in arms. Anyone who called me "gay" had the ability to take my career in their hands with their words. Not allowing and protecting everybody equally does a great disservice not only to our constituents but to our humanity. We need to take care of everybody, and we need to protect them under these laws. I'll ask that you help Nebraska stand on the right side of history and also to help our economy stand on the right side of history. We need our veterans to feel protected when they get out of the military as well. And if they

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wanted to stay here and bolster our economy and work here, they should be offered those same protections that the military and the United States government has been offering them as well. So I thank you for your time. If you have any questions... [LR478]

SENATOR ASHFORD: Well, thank you for your service. [LR478]

JENNIFER SHORT: Thank you, sir. [LR478]

ZACHARY WYATT: Well, Senators, you get a little treat today. I'm actually Representative Wyatt from northeast Missouri. I currently represent the 2nd district from the state of Missouri. But I am in the process of moving to Omaha to start studying at Creighton University in January. I didn't seek reelection. I actually decided that because partisan politics, as you guys know, and political life...it's amazing to help your constituents; the politics, it stinks. So...but why I'm here today, I'm actually currently the only openly gay Republican serving in the United States. I didn't realize... [LR478]

SENATOR ASHFORD: Seriously? [LR478]

ZACHARY WYATT: Seriously. [LR478]

SENATOR ASHFORD: My, my, my, my, my. [LR478]

ZACHARY WYATT: I didn't realize that. When I...it was May 2...actually, two weeks prior to May, a bill in the state house down in Missouri was put forth, the "Don't Say Gay" bill, which was making it where in primary and secondary education they couldn't talk about homosexuality; they only could talk about heterosexuality, and they couldn't even discuss if a kid was being bullied because of being gay; they couldn't...the counselors, administrators, no one could talk to this kid about it because it would be against the law. So when my party...one of my party members, they filed the bill, I decided that it was time for me to act and to come out. I, you know, a lot of people knew

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that I was gay; I just never really came forth with it. A lot of people I served with in the military, including Jen Short, and then also, you know, everyone knew, but it was never really talked about. And so then when I came out, thinking it was just going to be a state, you know, news day, it became a national news day for me. And I can tell you that a law like this...as a legislator, we had the discrimination law, we called it the Missouri Nondiscrimination Act, came forth in front of us. I'll tell you, my first year I voted "no" for it. And it's the worst vote, I can tell you, I ever made. And if I could change that, I would change it. But, as you know, when you make a vote, that is your vote that you've made, and you can't change it. You can only learn from that and correct that mistake. And so the next year when it came forward, I cosponsored the bill. Sadly, we didn't get the bill passed last year. But I can tell you, this year we have a lot of potential in the state of Missouri. The former speaker of the house, who is a powerful Republican, is going to be the lobbyist for this bill. So I guess I come to you guys today on the partisan politics issue of, well, what are my, if I'm a Republican, what are my colleagues going to think, or what are my constituents...Republican constituents going to think? And I guess you have to look around the country of what's going on. You look at New York. You have senators that lost their jobs because they voted for marriage equality. But those same senators say they would never change that vote ever again, that they were on the right side of history, and soon that will be shown. And so you just have to think, you know, every time something came up in front of me, I'd say my second year, because the first year (inaudible) I was a freshman rep. It's like a water, you know, a fire hose being opened full force in your face and saying, here you go; get what you can get. And also my second year I knew every vote...if I made a vote and I didn't get reelected for it, you know, at least I know I made the right vote. And so I guess I would just say, just follow your heart and know what's right. Don't look at what the politics is behind it, because on an issue like this, you know, nondiscrimination, making sure that everyone is treated equally under the law, you know, that's a tough thing; you can't...you know, people don't understand...as you know, there's a lot of people that don't understand how law works. And I will say that you guys are the ones that know what's going on within the state, especially with our laws. And you guys are more versed in Nebraska law than

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what I am. And I'm more versed in Missouri law. So I think that you guys will take the right avenues to get this passed. I hope so. And I hope that, hopefully, when something is going on in Lincoln, I'd come down and testify as well. [LR478]

SENATOR ASHFORD: How many votes short were you? [LR478]

ZACHARY WYATT: We have a supermajority of Republicans (laughter), and the...let's see, we were 20 votes down. [LR478]

SENATOR ASHFORD: Okay. [LR478]

ZACHARY WYATT: We had 163... [LR478]

SENATOR ASHFORD: It passed the senate; no, it didn't pass. [LR478]

ZACHARY WYATT: It didn't even come up in the senate because it started over in the house. But this year, with the former speaker of the house, his (inaudible)...like, he was supposed to be our next governor, but he decided to get away from politics, I guess. Lobbying work, you make a little bit more money. [LR478]

SENATOR ASHFORD: Yes, that's probably...(laughter). Certainly does...certainly been a (inaudible). [LR478]

ZACHARY WYATT: I know how much you guys make. [LR478]

SENATOR ASHFORD: Yeah. (Laughter) Yeah. And we're going to continue to make that. [LR478]

ZACHARY WYATT: Yeah, I heard that. I heard that. [LR478]

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SENATOR ASHFORD: So there you go. Thanks. And so you served two years in the house, or... [LR478]

ZACHARY WYATT: Yeah, two years in the house of representatives. [LR478]

SENATOR ASHFORD: And what was your town? What...? [LR478]

ZACHARY WYATT: Kirksville, Missouri; it would be, like, Truman State University. [LR478]

SENATOR ASHFORD: Yeah, I know Truman State is over there, yeah. [LR478]

ZACHARY WYATT: Yep. [LR478]

SENATOR ASHFORD: Good for you. [LR478]

ZACHARY WYATT: So...and, actually, just this last week Truman State University became one of the second state universities to pass their nondiscrimination policy... [LR478]

SENATOR ASHFORD: All right. [LR478]

ZACHARY WYATT: ...to include gender identity and, you know, sexual orientation. [LR478]

SENATOR ASHFORD: In the '80s when I was in the Legislature, and the early '90s, we did the hate crimes bill and expanded it to sexual orientation. [LR478]

ZACHARY WYATT: Yeah, and that was another thing. You know, we were able to do that. So it's, you know, it's a work-in-progress. And I can say as a Republican I get to

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watch my own party work through their issues. And it's amazing, because I can say, before I came out in May, the whole demeanor between LGBT members and the house changed, because I had Republican colleagues that knew me as, you know, they're like, we know you. So they became very supportive, and they started listening a lot more. And I will say, I also, by the end of the year, I was named one of the most conservative legislators in the state of Missouri. So, you know, take that. I cosponsored the nondiscrimination act that... [LR478]

SENATOR ASHFORD: Well, that's pretty good; I think that's conservative, isn't it? [LR478]

ZACHARY WYATT: Yeah, it is; I think so. You know, you're looking at the party of Lincoln, so...but I appreciate... [LR478]

SENATOR ASHFORD: Have you seen the movie? (Laughter) [LR478]

ZACHARY WYATT: Yes. Yes, I have. [LR478]

SENATOR ASHFORD: I saw it yesterday, and it... [LR478]

ZACHARY WYATT: Oh, I went to a midnight showing, so... [LR478]

SENATOR ASHFORD: Mine was middle afternoon. Thanks. Okay. Thank you for your... [LR478]

ZACHARY WYATT: Thank you. [LR478]

SENATOR ASHFORD: ...very much, Representative. Thank you. Do we have anybody else? [LR478]

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CAROL CLOUGH: Had to look to see if it was still morning to say "good morning" and I do want to thank you so much for this opportunity to be here today for this important issue. My name is Carol Clough, C-l-o-u-g-h, live at 6108 Lamplighter Drive in Omaha. And I'm just representing me. By way of background, I have a B.S.N. in nursing; I've been in nursing and in teaching for many years. My husband and I have three grown sons. We have family members serving in the military. I guess if you had to know what flavor I am, I'm a conservative evangelical Christian. So as that individual, I have concerns...I guess I'd narrow them just to the antidiscrimination sexual orientation ordinance rather than the wider issues of marriage and foster care, all of those (inaudible)...all of those that need to be addressed. And I guess I've been coming to these hearings for several years now and have taken a lot of notes. And it was interesting that last spring when we had the public hearing, there were many members of the LGBT community that came forward, one in particular, a young woman, an author named Ruth, who said, before the ordinance was passed, and she's an immigrant, and she said: I now have a place where I have a voice, where I can truly be the real me. And this was in Omaha, Nebraska, prior to the passing of the ordinance. You know, I appreciate the research that has been done. And I'm not a research scientist, but if I am understanding them correctly, this was an on-line, anonymous survey. So it's easy to assume that because there was very little input from western Nebraska, that it was because these individuals had a fear of being outed; that it was, if I'm understanding it right, it's an on-line, anonymous survey, and so it's easy to assume the worst. But could it also be maybe there weren't that many people interested in taking the survey there? There's a lot...there's so much even in Omaha's ordinance that deals in the arena of perception. And it's real hard to legislate perception. There's also a lot that you've heard, especially if you were here in the spring, heard a lot of testimony about the fear. And, you know, I guess a question I would have, I know there was a church that was represented that said that they wouldn't publish a member roster because all of the members were afraid of having their names listed. You know, since that ordinance has happened, has that church roster come out? It's very difficult to legislate. And you know, as legislators, but a lot of times the best-meaning bills have some long-range

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unintended consequences. And the other thing that I just want to remind everybody here is that I read the same Bible as both our Catholic testifier should and Jane with the Methodist Church. I know those verses, and I know all of them. But to assume that because I interpret them differently or because I place more value on, you know, a family lifestyle as I understand the scripture readings does not mean that I discriminate against those who have a difference of opinion with me. It does not mean that I hate them. And it does not mean...most of the people that I know of in my community would take a bullet for any one of these friends gathered here today for their right to live the lifestyle that they want free of hatred, free of name-calling, certainly free of violence. That's just a given for us, that they have those same rights. But here's the thing, Senators, those rights are protected under our Constitution, the Fourteenth Amendment. But what about...you know, and I so appreciated what the gentleman from the Catholic Church shared. That's not my, you know, that's not my denomination necessarily. But if you put legislation in place that has exemptions for religious organizations, what about me as an individual? What about my right to simply express my opinion as "hearably" as possible in my workplace setting? I do a pretty good job of making things as "hearable" as possible, so it's likely that I might not upset anybody. But someone could claim, because they disagree with my point of view, that I've made their workplace environment hostile. So, yes, you have a constitutional right to, you know, to protect that First Amendment for the organizations, but what about the individuals? And I guess I, you know, I would just close with that and just say that that's one of the reasons that I so appreciate these public hearings, because it gives us the capacity to do that. But as that ordinance stands right now, an individual in my workplace, if they were to ask me my opinion about their lifestyle, I have a right to my opinion. If they ask me, I'm going to tell. And I could be reprimanded or I could conceivably lose my job for stating my firmly held religious beliefs, and you have a responsibility to us as well. Thank you. [LR478]

SENATOR ASHFORD: Thank you. Next testifier. [LR478]

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SCOTT JONES: The Reverend Doctor Scott Jones, senior minister, First Central Congregational United Church of Christ. I live at 565 South 36th Street here in Omaha. And I was rising to address the religious liberty issue, so I'm glad I was after the last speaker, but I wanted to address some of the concerns of my brother in Christ representing the Catholic Church. First off, religious exemptions against civil rights laws are enshrined within the United States Constitution, and our Supreme Court's understanding of those laws. Just last year the Supreme Court ruled unanimously, which, you know, is something that they rarely do, that churches and religious institutions were exempt from civil rights legislation. The particular issue was a disabled person, which is not even something they usually have doctrinal disagreements about. But my church can choose to discriminate against disabled persons, and the Constitution protects us from doing so; fortunately, we do not choose to do that. So the protections for faith groups are strong, and should be strong, within our constitutional protections. And I'm glad that we have the exemption we do in the Omaha ordinance, and some legal opinions say that our exemption is even broader than what exists within federal law. So here in Nebraska we have gone out of our way to protect churches and faith organizations. There are two broad concerns that my colleague mentioned. One was the practical issues relating to gender identity and what that might mean for the law. Gender identity is a protected category in federal law, in the hate crimes statute. There are various federal courts, not in this district but in others, who have ruled that transgender people are currently protected under the existing sex and gender categories. And gender identity exists as a category within various state and municipality ordinances and laws. Many of those are places where the Roman Catholic Church is vibrant and strong. And so any practical concerns for here in Nebraska, we simply need to study what our colleagues in other states and cities have...what their results have been from including gender identity as protected categories. But on this issue of the religious liberty of the individual conscience, I think it is very important that we respond to a misunderstanding of religious liberty that my colleague from the Roman Catholic Church brought up and that my colleague from the evangelical perspective brought up a moment ago. There is no dilemma about what an individual's private

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conscience and how that relates within the public square. For the over 50 years of civil rights legislation in this country, we have held that one's individual conscience, one's private belief, even if it is a religious belief, is protected. But how one treats people in the public square can be regulated by law. One cannot use one's private religious belief to discriminate against someone of another religion. So if a Christian evangelical believes that a Muslim person is going to hell, they cannot discriminate against that employee, they cannot discriminate against any customer that comes into their business. That has been the law of this country for over 50 years. You cannot take your private, individual belief, even if it's religious, to discriminate against someone for race, for gender, for all of the existing categories. There is no dilemma when it comes to applying this to new categories. We have a long track record in this country of defending religious liberty of all individuals. And in order to defend the religious liberty of everyone, we agree that when we come to the private square, our behavior has to treat everyone fairly and equally. And I was so glad that the woman who testified last said, even though she is a conservative evangelical and probably believes that I am a sinner and does not agree with my own identity, that she does not discriminate against gay people. And that is precisely what we've enshrined within the Constitution and the legal statutes of this country. She is entitled to that belief. But she is not entitled in the public square to treat someone unfairly, to discriminate against them. And that is the sort of law that we hope to maintain here in Nebraska. Thank you. [LR478]

SENATOR ASHFORD: Thank you. Thank you very much. Do we have any other testifiers? Yes. How many more do we have? Two. Okay. One in the back, okay. [LR478]

CORINNE GOOGE: Hello, Senators. My name is Corinne Googe. I'm a transplant from Florida, but I go to Creighton. I'm not representing Creighton at all. And I'd like to talk to you about bullying. We talked a lot about personal stories, and I'd kind of like to share mine. I personally identify as a bisexual woman. And when I moved from Florida to Nebraska, I made a promise to myself that I would not live in the closet anymore. And I

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thought, you know, moving to Nebraska, there's no, kind of, protection for me if it turned out to be negative. I lived in the residence halls my first two years of college, and I remember seeing some graffiti being done to a campaign that we did to, kind of, make Creighton a more inclusive environment. And one of them was, "Don't be so gay," or "Don't be such a fag." And that hurt. My first two weeks there I was already reaffirming my worst fears, was that that's not going to be acceptable on this campus. I came out anyway, and from then on I received a lot of cyberbullying, a lot of anonymous hate messages telling me I'm going to hell, telling me I'm a sinner. I was born and raised Catholic, so I know what sin is. You know, it made me very depressed, and it continued to get much worse. In my sophomore year, twice, I almost killed myself because of the constant bullying I received. No person should have to go through that. We talk a lot about family in Nebraska. And I'm very close to my family. I'm out to both my brothers and my parents; I'm out to one of my aunts, my cousin. And my brothers are 18 and 19, so they're at that stage where everything is "gay," everything; you know, everything bad is "gay." And it's very hard to be close to family when that's all you hear. And it's very hard to be close when you know that somebody that you love associates being gay with being bad. I'm lucky enough that my parents accepted me and my brothers came to accept me; they could have been much worse. My cousin is very effeminate, but he's very fashion forward. He dresses very nicely for a straight male, but he's perceived gay. And my aunt, who is blood related, told him: If you come out as gay, you're not my son. And that's so frequent. I urge you to enact this. Don't let our youth suffer from unnecessary hate and discrimination. And don't make Nebraska youth another statistic. [LR478]

SENATOR ASHFORD: I don't see any questions. Thank you for coming up. Next testifier; yes, sir. [LR478]

DAVID GEHRLS: My name is David Gehrls. I live at 5018 North 115th Street here in Omaha, Nebraska. I am a licensed, ordained minister. I've been a minister most of my life. I have been involved in this issue here locally, and also in the area of dealing with

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reducing violence in our city. I fully support the right of every person, including those in the LGBT community, to live their beliefs without fear of attack or discrimination. I have great concerns about this type of legislation. I question whether it has the historical context of the 1964 Civil Rights Act in a number of areas. Specifically the one I would mention is that when you look at it historically, the African-American situation, the racial situation, they at that time had little economic power; they had very little political power. The government needed to step in and protect that power. We have a LGBT community that has incredible resources and critical political power, which you've seen today. And they do not need that protection in the same way that the groups did in 1964 in that Civil Rights Act. I feel that there are legitimate civil rights issues still unmet, especially in the area of race, and I believe that this type of legislation could actually diminish and hurt that type of legislation. I feel that when we look historically at these issues, I see two great wrongs in history. One is when the church takes over the state, and the other is when the state takes over the church. And I see in the new legislations coming forth today the state stepping in and legislating faith issues that reflect upon religious freedoms of people. In the mandate that was given to you, one of the issues for discussion is a religious exemption. I for one oppose, as a minister, oppose that religious exemption. True civil rights issues should not have any exemptions ever, if they're true civil rights issues. As a person of faith, you cannot ask me to separate what I believe from how I live my life, because that's part of me. My First Amendment freedom of religion is the same as the First Amendment freedom of religion of the press; that was not given to organizations. The press has First Amendment freedoms to the individual, not to the organization. And our religious freedoms are given to individuals, not just to organizations. And as we (inaudible) what these types of legislations are starting to do is that they're saying: When you come out of your church doors, you have to leave your faith at the church steps because we don't agree with that faith. And so the government is legislating what people can believe and how they can live their faith outside of their church walls. And that's, to me, is the crux of the issue. And we're seeing examples of this surfacing all over the nation; I could provide dozens of them. Here's an interesting one. Here is...the city of Duluth put out a sign here called "First

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Amendment Zone." There are some preachers that were preaching in the street that didn't have (inaudible). This is not my style. But they...the city...the festival...they have this big festival in Christmastime. They said to them: Okay, here, this private parking is where you can exercise your First Amendment freedoms, but you can't go into this part of the park where everybody else is and exercise your First Amendment freedoms. That's where this kind of thing began, and then now this is in the courts in Minnesota. There is was African-American woman who is the professor of diversity for Toledo University. And she was reading an article in the Toledo paper about comparing homosexual rights and freedoms to African-American rights and (inaudible) freedoms. And she wrote a letter to the city paper, signing her name, did not use any connection with the university, disagreeing with that position as an African-American. She was fired for expressing her opinion as an individual, without using any (inaudible) university. And it was appealed to the court. A district court said that the school's diversity interests were more important than the First Amendment. That's where this stuff is going. And that's why many of us in the church feel that this is an attack against us. We're not trying to oppose anybody's freedom; we just want a level playing field here. We want the same freedoms on all sides of the fence. So (inaudible) beliefs are not popular to have them. It's interesting that she writes this...and she writes in a comment about this. I think it's a very significant statement. She says: As a black woman, I take great umbrage at the notion that those choosing the homosexual lifestyle are civil rights victims; here's why: I cannot wake up tomorrow and not be a black woman; I'm genetically and biologically a black woman and very pleased to be so, as my creator intended. There are some fundamental issues we need to discuss here before we start doing something, because civil rights...when we expand civil rights laws, we are, in a sense, discriminating. We're saying we're going to discriminate positively for this group but...and also automatically thereby we tend to discriminate (inaudible) for this group. And when we expand these issues, we need to look very carefully at whose civil rights we're discriminating against as well as those we're legislating for. Thank you. Any questions? [LR478]

SENATOR ASHFORD: No, but I do...I am aware of the work you do in the violence

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area. And it's been very constructive, and... [LR478]

DAVID GEHRLS: Thank you. [LR478]

SENATOR ASHFORD: ...and I think... [LR478]

DAVID GEHRLS: I try to keep that separate from this issue. [LR478]

SENATOR ASHFORD: Well, I know you do, but I...what I'm...and I appreciate that, but I may not agree with you on this, but I absolutely commend and applaud the work you're doing, the... [LR478]

DAVID GEHRLS: Thank you. [LR478]

SENATOR ASHFORD: ...for people who have been victims of violence. And it should be applauded. So thank... [LR478]

DAVID GEHRLS: We invite everybody to be part of that. This is a common issue across... [LR478]

SENATOR ASHFORD: Right. [LR478]

DAVID GEHRLS: ...all lines. And that's why we keep... [LR478]

SENATOR ASHFORD: Right. [LR478]

DAVID GEHRLS: ...this issue out of that issue. [LR478]

SENATOR ASHFORD: Well, you've done a good job, and you should be commended. [LR478]

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DAVID GEHRLS: Thank you. [LR478]

SENATOR ASHFORD: Thank you. Okay. Next...I think this is...is this the last testifier?
Oh, sorry. Yes, ma'am. [LR478]

DIANE NABITY PERRY: Hi. I'm Diane Nability Perry, and I'm here representing GLSEN Omaha, which is Gay, Lesbian and Straight Education Network. I'm currently the chair of that organization. And I could echo a lot of the testimony today. I won't. But I wanted to bring up a couple points that I heard conversation on or discussion on. One of them was, Senator Nordquist, you asked about the bullying prevention policy that was implemented here in the state in 2009, as to what does that look like, what's going on with it. The previous chair of GLSEN Omaha conducted a thesis in 2010, and his thesis was on the implementation of that policy statewide. And at that time there were 256 public school districts, and not even half had implemented that policy at the time that he did his thesis. And only 6 had included enumeration, which included sexual orientation. So in 2010 that's kind of where Nebraska stood on that. And he has that material for you, if you're interested in looking at that study. GLSEN...oh, I meant to address one other piece. GLSEN nationally conducts a National School Climate Survey every two years. And it's for middle school and high school LGBT youth, to see what their conditions are in the school. And through those statistics, I think...and I'll get a copy to you so that you can review that. It really echoes and parallels the UNMC study in their percentages of where they fell as to different issues. So that's an important tool to be able to utilize as well. And there's a piece in there on cyberbullying. And this study has been conducted for ten years "ongoingly." And in 2007 is when cyberbullying first became one of the items in the study. And the results at that time: cyberbullying was at 40 percent. And then it even has increased, as you might imagine, with every two years, with each of the statistics that have been released. So, clearly, there's work that needs to be done. And I wanted to bring that particular study and that National School Climate Survey into your consideration to look at. On a personal note, I'm a mother of three

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children, two of them are gay. And the two that are gay live in Brooklyn, New York. And they will not come to Nebraska because they do not feel protected. And my youngest son did receive bullying in schools and was not protected. So we're losing. For our economy, we're losing great minds and we're losing bodies. So I encourage you to consider all the different aspects of everything you've heard here today. And I, too, went to see Lincoln yesterday afternoon, and... [LR478]

SENATOR ASHFORD: Really? [LR478]

DIANE NABITY PERRY: ...you can't help but be reminded of... [LR478]

SENATOR ASHFORD: Yeah. [LR478]

DIANE NABITY PERRY: ...the importance of the dignity of every single human being and how it's important for legislation to ensure those civil liberties and civil rights. So I hope that you take it very seriously. [LR478]

SENATOR ASHFORD: Very true. Thank you very much. [LR478]

DIANE NABITY PERRY: Any questions? [LR478]

SENATOR ASHFORD: We did look at those numbers, actually, on the bullying, that half the districts had not implemented policy. And I believe that's been rectified, or at least it's in the process of being...but you're absolutely right, the study did indicate that half of the districts had not implemented a policy. So thank you. [LR478]

DIANE NABITY PERRY: Thank you. [LR478]

SENATOR ASHFORD: Thanks very much. [LR478]

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JAMES PATTERSON: Good morning, Senators. My name is James Patterson, the pastor at Trinity Hope Foursquare Church. And I wanted to step up and speak to the civil rights portion of this amendment...I mean this (inaudible) that's being considered. And my concern is very much as part of what Mr. Dave Gehrls has shared, with regard to African-American experience. And I think about our experience, how--I don't know exact what adjective to use--how hideous, how difficult, how barbaric it was for the African-Americans to come. And we heard in the GLBT community about "deciding to come out." Well, the African-Americans could not choose to come out. They were outed already. We were outed. Before we ever spoke, people knew who we were. We were intentionally discriminated against; we were denied opportunities financially, economically, geographically with regard to where we could live and where we'd go to school, what our opportunities were, because of our race. And I don't see a real strong comparison there with the GLBT community actually deciding if they're going to do something. Why don't we also say that as...I have a family member who is also in that community, who I love very dearly, and I do not support discrimination against them. And I think that whatever their abilities...God-given abilities will take them, they need to be honored and given those opportunities. But to compare their experience with the separation of our families, to what happened to our women, to public lynchings, and so on and so forth, to compare their experience with our experience is...I have a real issue, and a lot of us in the African-American community do. And recognizing that they have some challenges and differences, and I love them, but there should be a line drawn with regard to their experiences and the African-American experience. And then also I have a concern with regard to this legislation. I think that, personally, that anyone should be able to pursue their highest goals and aspirations. And their sexual orientation, if that's what...if their sexual orientation and the desire of them to...if they would desire to go to some field of expertise and work in and live in, then so be it. But in this country we have a Judeo-Christian foundation, and a lot was built upon that. And so I just...I stand before you as an African-American, as a pastor, and I would say that when we connect those two together, there is a lot that, from my perspective, that is being ignored, with regard to our experience of 200-and-some years of the crime that the law supported. And I

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would ask you to consider that. And I'm concerned that even our First Amendment freedoms could come under question, with regard to can we...it was stated with regard to seven verses of scripture that is questioned how it is stated and that maybe it's misquoted. Well, we still have a right to quote the same scriptures and actually have a sincere faith, belief, that we are interpreting them correctly. But I'm concerned that if we don't address this broadly, then that all of a sudden the religious community is all of a sudden now muzzled and cannot say what their Bible says. And that's affecting our First Amendment, which is just as important as anybody else's First Amendment. [LR478]

SENATOR ASHFORD: Thanks, Pastor. Thank you. Any questions? I don't see any. I believe that concludes... [LR478]

JAMES PATTERSON: Thank you. [LR478]

SENATOR ASHFORD: ...this hearing. Senator Nordquist, would you like to comment, please? (See also Exhibits 14, 15, and 16.) [LR478]

SENATOR NORDQUIST: A note from here, and conclusion. I think nearly every speaker today in one way or another said that discrimination is wrong and shouldn't be tolerated in our state. For me, this really comes down to, you know, almost our state motto: It's "the good life" in Nebraska, and that means the good life for everyone, not the good life except for a few. I appreciate Senator Ashford devoting so much time to this issue today. There obviously are a number of facets here that need to be looked at and potentially look at introducing some legislation next session. I just will address the issue of choice here. I choose to be a Roman Catholic; it's not something that's genetically in me. And yet I'm protected because of that, because of laws that are in place to protect me as a Roman Catholic. I can't be discriminated against based on that. So I think when we talk about choice, obviously we have protections in place for many people right now based on life choices. So I think that's part of this discussion we need to have as a Legislature going forward in the next session. So I appreciate everyone, though, being

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here and speaking and letting their voice be heard. That's the purpose of this. And we will do our best as policymakers to move forward. Thank you. [LR478]

SENATOR ASHFORD: Thanks. [LR478]