



To: Judiciary Committee  
From: Tom Venzor, Executive Director  
Nebraska Catholic Conference  
Subject: LB689 (Non-Discrimination & Real Estate Transactions & Leases) (POSITION)  
Date: March 1, 2019

Chairman Lathrop and Members of the Judiciary Committee,

The Nebraska Catholic Conference advocates for the public policy interests of the Catholic Church and advances the Gospel of Life through engaging, educating, and empowering public officials, Catholic laity, and the general public. I would like to express our opposition for LB689, specifically with reference to the inclusion of sexual orientation and gender identity into the various non-discrimination clauses of the bill.

The Catholic faith recognizes the supreme dignity of every person as made in the image and likeness of God. The only appropriate response to this reality is charity. For this reason, the Catholic faith also recognizes that nobody, including those who are experiencing same-sex attraction or gender identity issues, should be subject to unjust discrimination.<sup>1</sup> In other words, everyone should be treated with respect and dignity.

LB689, unfortunately, goes beyond protecting against unjust discrimination. LB689 seeks to utilize the government's coercive power to force and punish individuals, businesses, non-profit entities, and religious institutions to affirm conduct that conflicts with their sincerely held moral and/or religious beliefs on marriage and human sexuality. Even former Supreme Court Justice Anthony Kennedy recognized that a traditional view on marriage and sexuality "long has been held—and continues to be held—in good faith by reasonable and sincere people here and throughout the world."<sup>2</sup> LB689 does not treat those with differing views as reasonable and sincere people, but in need of corrective government coercion and punishment.

Some examples might help clarify the problematic dimensions of this legislation.

Consider the situation of Phyllis Young, who currently has a petition for a writ of certiorari in front of the United States Supreme Court.<sup>3</sup> Mrs. Young rents several bedrooms in her family home under the business name Aloha Bed & Breakfast. This business endeavor helps Mrs. Young earn a livelihood during retirement. Mrs. Young welcomes any guests to her house, as long as they follow her "house rules." One of her "house rules" is that "no romantic partners share a bedroom unless they are a married man and woman."

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<sup>1</sup> See *Catechism of the Catholic Church*, paragraphs 2357-2359.

<sup>2</sup> *Obergefell v. Hodges*, 135 S.Ct. 2584, 2594 (2015).

<sup>3</sup> See Petition for a Writ of Certiorari, *Aloha Bed & Breakfast v. Diane Cervelli, et al.* (2018) (No. 18-451), available at <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/18-451.html> (last accessed February 28, 2019).

Based on her rules, Mrs. Young was unable to accommodate a same-sex couple who attempted to reserve a room at her home. She stated that this would violate her religious beliefs, as she believes she is “morally responsible for the sexual activity that takes place under her roof.” She provided a referral to a nearby friend who was willing to accommodate the couple. Notably, Mrs. Young also requires her daughter and live-in boyfriend to sleep in different bedrooms when they stay at the house.

LB689 would unnecessarily and unjustly punish people in Nebraska who, like Mrs. Young, hold certain views about marriage and human sexuality and engage in activities such as renting or leasing their home.<sup>4</sup> This sends the message to people like Mrs. Young that the government will force you to sacrifice your faith if you want to earn a living in the housing industry. Such an unwelcoming message chills full participation in public life, is bad public policy, and would unquestionably entangle Nebraska in 1<sup>st</sup> Amendment litigation.

Also, it is not rare for a religious organization to offer low-cost housing options or to engage in the selling, renting, and leasing of real estate. Under LB289, religious organization engaged in the housing industry with similar values as Mrs. Young could be punished by the government for declining to be a party to certain conduct because of their moral and religious beliefs related to issues of marriage and human sexuality. This would have the result, for example, of jeopardizing their ability to provide affordable housing to those who most need it.<sup>5</sup> This is a substantial societal cost and should be carefully considered when thinking about legislative bills, like LB689, that seek to use the government’s coercive power to punish religious organizations for not abiding by a particular view of marriage and human sexuality.

The Nebraska Catholic Conference respectfully urges your opposition of this legislation. Please make this written testimony part of the public record. Thank you for your time and consideration of our position.

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<sup>4</sup> See Nebraska Revised Statutes §20-322(3) (“Nothing in the act shall prohibit or limit the right of any person or his or her authorized representative to refuse to rent a room or rooms in his or her own home for any reason or for no reason or to change tenants in his or her own home as often as desired, except that this exception shall not apply to any person who makes available for rental or occupancy more than four sleeping rooms to a person or family within his or her own home.”). Though this provision would provide some protection, it also raises a variety of questions related to the meaning of a “home” or “sleeping rooms” and the extent to which it would provide protection to people in Nebraska in a similar situation as Mrs. Young.

<sup>5</sup> Similar laws, in different contexts, have had a negative effect on religious organizations to serve vulnerable children in need of good homes through foster care and adoption services. See “Discrimination against Catholic Adoption Services,” USCCB (2018), available at <http://www.usccb.org/issues-and-action/religious-liberty/upload/Discrimination-against-Catholic-adoption-services.pdf>.