



To: Chairman Lathrop & Members of the Judiciary Committee
From: Nebraska Catholic Conference
Tom Venzor, Executive Director
Subject: LB206 (Student Journalists & Free Speech) (Oppose)
Date: February 1, 2018

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.

LB206, which seeks to establish additional free speech protections for student journalists and media advisers, has problematic constitutional implications as applied to private religious universities and colleges and, as such, we respectfully oppose this aspect of the legislation. Notably, the Nebraska Catholic Conference raises this issue to the extent that we represent St. Gregory the Great Seminary which is a private religious seminary college located in Seward.

LB8206 forces private educational institutions to assist in the production and dissemination of student speech with which they disagree. This violates the 1st Amendment Free Speech Clause protection against state coercion to convey messages with which the institution disagrees.¹

LB8206 also deprives a private educational institution of the freedom to take adverse action against members of its community because they engage in expression contrary to the beliefs of the institution violates the institution's Free Speech Clause right to expressive association.²

Further, LB206 deprives a religious educational institution of the ability to discipline a student media advisor or the student that engages in conduct contrary to the mission of the school violates the institutional autonomy of the school, which is protected by the Free Exercise and Establishment Clause of the 1st Amendment. Where those involved are ministers (e.g., certain faculty and all seminary students), it also violates the ministerial exception acknowledged by the United States Supreme Court.³

Finally, while Section 1(3) proposes to limit the rights created by this bill. Those limits hardly begin to address the constitutional issues of this bill, as applied to private educational institutions.

We request that the legislation strike any reference to private postsecondary religious institutions. Thank you for your time and consideration.

¹ *Riley v. National Federation of the Blind*, 487 U.S. 781, 795-801 (1988); *Pac. Gas & Elec. Co. v. Pub. Util. Comm'n of Cal.*, 475 U.S. 1, 9-21 (1986) (plurality opinion); *Miami Herald Publ'g Co. v. Tornillo*, 418 U.S. 241, 254-58 (1974); *Wooley v. Maynard*, 430 U.S. 705 (1977); and *Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston*, 515 U.S. 557 (1995).

² *See, e.g., Boy Scouts of America v. Dale*, 530 U.S. 640, 656-59 (2000).

³ *Hosanna-Tabor v. EEOC*, 565 U.S. 171 (2012).