

Background information on LB 485:

Legislative Bill 485, in the form of Amendment 1771, would add “sexual orientation” and “gender identity” as protected classifications for purposes of the law used to punish employers (of 15 or more employees) for decisions deemed to be discrimination in hiring, firing and terms and conditions of employment. In addition, it would apply the same prohibitive standard to all contractors and subcontractors of the state and political subdivisions regardless of the number of employees.

The legislation defines “sexual orientation” as “*actual or perceived homosexuality, heterosexuality, or bisexuality.*” It does not make any distinction between sexual inclination (attraction) and sexual conduct (including lifestyle). It encompasses both.

The legislation defines “gender identity” as the “*actual or perceived appearance, expression, identity, or behavior of an individual, whether or not that appearance, expression, identity, or behavior is different from the individual’s assigned sex at birth.*”

This proposed law to prohibit and punish discrimination based on “sexual orientation” extends far beyond unjust discrimination based on any employer’s mere belief that any applicant or employee is sexually attracted to persons of the same sex. It extends legal protection and state governmental affirmation to public activities intended to endorse, promote and facilitate sexual conduct (i.e., lifestyle activities) outside of marriage between a man and a woman. Employers who, because of their religious and/or moral convictions, do not wish to accept or affirm lifestyles that involve sexual conduct outside of marriage between a man and a woman will be subject to state-imposed punishment for claims of discrimination.

With regard to “gender identity,” this legislation would create special employment rights for males who dress like—or identify as—females and females who dress like—or identify as—males; prohibiting employers from considering the consequences of such conduct at the work place, including adverse impacts on the privacy and associational expectations and rights of other employees.

What proponents of LB 485 claim is an exemption for religious institutions and organizations is vague and inadequate. Extensive litigation

would be inevitable. What's more, there are no protections for private-sector business owners (of 15 or more employees) who wish to adhere to their religious beliefs and/or moral convictions in making employment and workplace decisions.

There is a lack of empirically sound and reliable evidence that employment discrimination on the bases of sexual orientation and gender identity is a pervasive problem, or a cause of economic disadvantage, so as to warrant legislation that would impose burdens on religious and/or moral convictions. Employers should always respect the intrinsic dignity of all employees, but LB 485/AM1171 is neither necessary nor right as a public-policy balance to realize that goal. Rather, this legislation's broader, ultimate goal is to promote the redefinition of marriage and to use the coercive authority of state government to see to it that all citizens accept, and act in accord with, an "*updated*" view of marriage and sexual morality.