

NORTH CAROLINA GENERAL ASSEMBLY  
SENATE JUDICIARY II COMMITTEE

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TRANSCRIPT OF THE PROCEEDINGS  
MARCH 23, 2016

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In Raleigh, North Carolina  
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Transcribed by Brad Worley

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1                   SEN. RANDLEMAN: Terry Barnhardt? Thank  
2                   you. Larry Hancock? Steve McKaig? Thank you.  
3                   Matt Urben? Thank you. And Dale Huff? For those  
4                   who are here that would like to speak in opposition  
5                   to the bill, there -- Dale Huff has a list --  
6                   sign-up sheet. We're going to allow those in  
7                   support and those in opposition to sign -- to speak  
8                   for two minutes, so if you want to go ahead and get  
9                   your name on the list, we will take up to five  
10                  speakers.

11                  Let me introduce my co-chairs, Senator  
12                  Tamara Barringer and Senator Warren Daniel. Do  
13                  each -- either of you have comments? Okay. Thank  
14                  you. So we will go ahead and call House Bill 2  
15                  forward. I think it's going to be handled by  
16                  Senator Buck Newton and Representative Dan Bishop.  
17                  Where is Buck? One moment, please.

18                  (Members at ease.)

19                  SEN. RANDLEMAN: So, Senator Buck Newton  
20                  and Senator [sic] Dan Bishop, if you'll come  
21                  forward and present the bill. Excuse -- soon --  
22                  soon to be -- soon to be, Representative. Thank  
23                  you.

24                  SEN. NEWTON: Thank you, Madam. Thank  
25                  you, Madam Chairman. May I proceed?

1                   SEN. RANDLEMAN: Please.

2                   SEN. NEWTON: Okay. Thank you. Thank  
3 you very much, and thank you, colleagues, and --  
4 for being here today. It's a -- actually very  
5 unfortunate that we have to be here today. I can't  
6 believe that we are -- actually, I can't believe we  
7 are here today and we're having to address this --  
8 this -- this issue that has been sent to us  
9 gift-wrapped by the City Council of Charlotte.

10                   As we all know, we have a problem. The  
11 City of Charlotte and their City Council has  
12 decided to push a very radical and dangerous  
13 policy, and thrust itself into the spotlight, by  
14 passing this ordinance that allows men to share the  
15 bathroom and shower facilities with young girls and  
16 women. That's why we're here today.

17                   Charlotte's ordinance clearly violates  
18 common sense. It also violates a number of state  
19 laws, criminal trespass law, indecent exposure law  
20 and building codes. You know, I'll just say it  
21 like this: the radical left wing groups and the  
22 liberal politicians like our current Attorney  
23 General are afraid to stand up to the political  
24 correctness mob and fight for common sense. They  
25 refuse to take action to protect the safety and

1           privacy of women and children. I will not, and I  
2           don't believe we will, be bullied by this political  
3           correct mob.

4                         They should have never passed this  
5           ordinance. They were warned not to pass this  
6           ordinance. The governor warned them privately, and  
7           I think even publicly, many of the members of the  
8           council acknowledged that they had no authority to  
9           pass such an ordinance. Politics have reached a  
10          new extreme when a municipality's top priority is  
11          to find a way to allow men into a women's locker  
12          room or bathroom. Tens of thousands of our  
13          constituents, my constituents, your constituents,  
14          across this state, have called on us to put a stop  
15          to this nonsense. We've called on Roy Cooper to  
16          put a stop to this nonsense, and he refuses to do  
17          his job.

18                        He refuses to enforce the law of this  
19          state, so it falls to us. It falls to us. This  
20          ordinance legalizes conduct, which in any other  
21          place in North Carolina, would expose people to  
22          going to jail. You don't have to be an attorney to  
23          know that it's a bad idea if men start using the  
24          ladies' room here at the General Assembly or  
25          anywhere else. There's going to be problems, and

1            everywhere else, these men would be arrested, and  
2            it's basic common sense.

3            Sheriff B.J. Barnes said a majority of  
4            people of Guilford County should not have to  
5            compromise their safety and privacy in public  
6            bathrooms and showers. Said he didn't want his  
7            officers to be put in the awkward position of  
8            determining who is entitled to be in the bathroom.

9            This ordinance not only endangers women  
10           and children, but those from places far away who  
11           visit Charlotte, and I'll point out, visit  
12           Charlotte by passing through its busy airport. And  
13           it's a shame, and it's a tragedy that we have to be  
14           here today to deal with it.

15           You know, all you have to do is look at  
16           recent news reports from Seattle detailing how a  
17           grown man went into the changing room, I believe it  
18           was at a pool, for young girls. And when  
19           confronted over it, he claimed, "The law's changed  
20           and I have a right to be here," and that's what  
21           we're going to face if we don't address this  
22           problem.

23           That can and that will happen here in  
24           North Carolina if we allow this ordinance to go  
25           into effect. That is why municipalities need to

1 follow the same law across this state. That is why  
2 it is important that we have a statewide standard  
3 to deal with these issues.

4 I will point out to you that one of the  
5 leaders of this effort to pass this ordinance was a  
6 registered sex offender here in North Carolina.  
7 One of the main vocal proponents of this -- of this  
8 ordinance, and the media covered it up. They knew  
9 all about it, but they refused to tell the public.  
10 That's unacceptable. We're not going to stand for  
11 it.

12 So we have a solution. We have it in  
13 this bill that's before us. This bill addresses  
14 these serious safety concerns. They've been raised  
15 by Charlotte's ordinance by setting a single  
16 statewide standard to ensure that men cannot use  
17 ladies' bathrooms, locker rooms. And that the same  
18 standard applies in our public schools, public  
19 buildings and other places of public accommodation  
20 throughout the State of North Carolina. This bill  
21 does not prohibit schools or other facilities from  
22 providing reasonable accommodations like single  
23 occupancy bathrooms for people who may be facing  
24 gender identity issues. It does not prohibit those  
25 kinds of reasonable accommodations, but it does set

1 a single standard of multiuse facilities.

2 For the first time, this bill will also  
3 establish a unify -- a uniform statewide  
4 antidiscrimination policy. I think this is very  
5 important for people to realize. For the first  
6 time, this bill will establish a uniform statewide  
7 antidiscrimination policy on the basis of race,  
8 religion, color, national origin, age, sex or  
9 handicap. This new antidiscrimination policy is  
10 actually stronger than federal law, and it's long  
11 overdue.

12 In going through the process of preparing  
13 this legislation, and trying to figure out how we  
14 were going to deal with this -- this insanity and  
15 this ordinance, we realized that this was overdue,  
16 and that this was part of the solution. This bill  
17 will take steps to prevent future situations like  
18 Charlotte's overreaching ordinance by creating  
19 statewide consistency for laws relating to  
20 employment and public accommodation. These are  
21 policies that ought to be set at the state level,  
22 and not in a patchwork, inconsistent framework.  
23 Our businesses and our citizens deserve no less  
24 than to understand that what they have in Morehead  
25 City or Greenville or Wilson or Raleigh is the same

1           that they will find in Charlotte. Forcing  
2           businesses to learn and comply with a patchwork of  
3           different rules in different cities across the  
4           state doesn't make any sense. It discourages them  
5           from doing business here in North Carolina, and  
6           this bill will help prevent that from happening.

7                         Madam Chairman, if I could, at this time,  
8           I will -- I ask if staff could go through the bill  
9           in its particulars, and then I will be happy to  
10          address questions from the committee.

11                        SEN. RANDLEMAN: Any comments from  
12          Representative Bishop?

13                        REP. BISHOP: No, Madam Chairman. I  
14          think that proceeding in the way that Senator  
15          Newton has outlined is just fine, and I'm here if  
16          there are any questions I can help with.

17                        SEN. RANDLEMAN: Thank you. Then we will  
18          ask Kara McCraw to go over the bill for the  
19          members.

20                        MS. MCCRAW (STAFF): Kara McCraw, Staff  
21          Attorney with the Legislative Analysis Division.  
22          On Page 1 of the bill, you'll see where it says  
23          starting on Line 23 of 24, Part 1, Single Sex  
24          Multiple Occupancy Bathroom and Changing  
25          Facilities, Section 1.1 and 1.2 go together. 1.1

1 is a conforming change. Section 1.2 would require  
2 schools or -- I'm sorry, local school  
3 administrative units and local boards of education  
4 to require that any multiple occupancy bathrooms or  
5 changing facilities in the facilities be designated  
6 for student use based on the student's biological  
7 sex. The next -- on Page 2, you'll see  
8 accommodations permitted.

9 The statute then goes on to say that  
10 local boards may provide accommodations upon  
11 request due to special circumstances, but it does  
12 limit those accommodations to not allowing students  
13 to use multiple occupancy bathrooms or changing  
14 facilities based -- designated for the opposite  
15 sex. There are a list of exceptions in D and  
16 reasons that someone of the opposite sex might  
17 enter the bathroom, and those are -- you can see  
18 the list there: custodial purposes, maintenance  
19 inspections, medical assistance, assistance to a  
20 student, receiving assistance in using the  
21 facility, accompanying a person other than a  
22 student who needs assistance, and temporary  
23 designation for -- based on a use by the person's  
24 biological sex. That last one would allow  
25 something like a visiting sports team to use a

1 boys' locker room on the night of the girls' game.

2 Section 1.3 then creates a similar  
3 statute for other public agencies in North  
4 Carolina, and that would cover the legislative,  
5 judicial and executive branch agencies as well as  
6 local governments. Would require those public  
7 agencies to designate multiple occupancy bathrooms  
8 for use based on biological sex. It has similar  
9 accommodations, language and similar exceptions to  
10 allow for custodial purposes, maintenance, medical  
11 assistance, rendering -- accompanying a person  
12 needing assistance for a minor using -- under the  
13 age of seven who accompanies a person caring for  
14 that minor or that have been temporarily designated  
15 for use for by that person's biological sex.

16 Part 2 of the bill then deals with  
17 employment and contracting. Section 2.1 is part of  
18 the Wage and Hour Act, and adds a new section that  
19 specifically preempts local governments from  
20 creating or imposing requirements upon employers  
21 pertaining to compensation of employees. There are  
22 several exceptions to this preemption. Those in --  
23 one, local governments can still have regulation  
24 requiring their own employees. Two, economic  
25 development incentives under Chapter 143B. Three,

1 economic development incentives under the Local  
2 Development Act of 1925. Four, a requirement of  
3 federal community development brought block grants.  
4 And five, programs established under two statutes  
5 dealing with community development programs.

6 Section 2.2 and 2.3 deal with cities and  
7 counties -- they're parallel statutes -- and they  
8 would say that when a city and a county contract,  
9 they are restricted from including in the contract  
10 regulations or controls on contract -- contractors'  
11 employment practices or mandating or prohibiting  
12 provisions of goods, services or accommodations  
13 except as otherwise required or allowed in state  
14 law.

15 Part 3 of the bill has two sections. The  
16 first section is 3.1 and 3.2; modify the Equal  
17 Employment Practices Act in North Carolina. That  
18 act creates a public policy of employment without  
19 discrimination based on certain protected classes.

20 In Subsection C that's created on Page 4,  
21 there is a preemption statute that would say that  
22 local governments and other political subdivisions  
23 would not be allowed to impose regulations or  
24 requirements on employers pertaining to the  
25 regulation of discriminatory practices in

1           employment. However, it would still allow them to  
2           regulate their own employees. Section 3.2 adds  
3           language to specify that the Equal Employment  
4           Practices Act does not create a statutory or common  
5           law private right of action. And then on Page 5,  
6           there is a new statute, a new article being created  
7           to create an equal access to public accommodations  
8           statute in North Carolina.

9                         That language first states the public  
10           policy of the state to protect and safeguard the  
11           rights of individuals with regard to enjoyment of  
12           goods, services, facilities, privileges, advantages  
13           and accommodation of places of public accommodation  
14           free of discrimination based on race, religion,  
15           color, national origin or biological sex. There is  
16           an exception for providing separate bathrooms.

17                         Subsection B then has similar preemption  
18           language to the previous section that says that  
19           local governments are not permitted to regulate or  
20           impose requirements pertaining to regulation of  
21           discriminatory practices in places of public  
22           accommodation. The definition of public  
23           accommodation mirrors 168A, which deals with  
24           provision of handicapped facilities and  
25           discrimination and access to facilities for

1           handicapped.

2                           And then finally, there is -- the  
3           investigation provision on Page 5 allows the Human  
4           Relations Commission at the state level to receive  
5           complaints of discrimination and to engage in a  
6           process to try to reach amicable resolution of  
7           those complaints. And then there's similar  
8           language as there was in the previous statute  
9           indicating that this does not create a statutory or  
10          common law private right of action. Section 4 is a  
11          severability clause, and then Section 5 is your  
12          effective date.

13                          SEN. RANDLEMAN: Thank you. Senator  
14          Newton, would you like to speak further on the  
15          bill?

16                          SEN. NEWTON: No, thank you, Madam  
17          Chairman. I'm happy to answer any questions from  
18          the committee.

19                          SEN. RANDLEMAN: Questions from the  
20          committee? Senator Bingham?

21                          SEN. BINGHAM: Thank you, Madam Chairman.  
22          Senator Newton, on page -- let's see, Page 3 under  
23          sub-item, or -- that would be D, it lists public  
24          authority as defined and it gives the General  
25          Statute. Would you further explain that, please?

1                   SEN. NEWTON: I'm sorry, Senator Bingham.  
2                   Could you tell me which line again you're talking  
3                   about?

4                   SEN. BINGHAM: Sorry. Page -- it's Page  
5                   3. It would be Line 1 under D. It's got public  
6                   authority as defined, and what would that  
7                   definition be as "public authority"? I'm just --

8                   SEN. NEWTON: If I -- I would ask -- I'll  
9                   give this answer and then if -- if it can be  
10                  expanded upon by staff, I will. The intent of this  
11                  purpose was to cover every -- every government  
12                  entity that might be out there. So you have public  
13                  authorities -- what would be a good example? If --  
14                  I'm trying to think of a good -- my mind went  
15                  blank. Airport authority, different quasi-  
16                  governmental authorities that have been created  
17                  around the state.

18                  SEN. BINGHAM: Okay. Thank you. Thank  
19                  you, ma'am.

20                  SEN. RANDLEMAN: Did that answer your  
21                  question, or did you want to -- some explanation of  
22                  the statutory reference?

23                  SEN. BINGHAM: Well, that would be fine  
24                  also --

25                  SEN. RANDLEMAN: Okay. Kara, if you

1           could speak to the statutory reference, please?

2                       MS. MCCRAW: So, the definition that's  
3           referenced there comes from the Local Government  
4           Budget and Fiscal Control Act, and "public  
5           authority" is defined there as a municipal  
6           corporation other than a unit of local government,  
7           not subject to the State Budget Act or a local  
8           government authority, board, commission, council or  
9           agency, that -- and then there are three criteria:  
10          is not a municipal corporation, is not subject to  
11          the State Budget Act, and operates on an area,  
12          regional or multi-unit basis and the budgeting and  
13          accounting systems of which are not fully a part of  
14          the budgeting and accounting systems of a unit of  
15          local government.

16                      SEN. RANDLEMAN: Answer your question?

17                      SEN. BINGHAM: Yes, ma'am. Thank you,  
18          Madam Chairman, Senator Newton.

19                      SEN. RANDLEMAN: Other questions from the  
20          committee? Yes. Senator Van Duyn?

21                      SEN. VAN DUYN: Madam Chairman, I put  
22          forth an amendment, which you --

23                      SEN. RANDLEMAN: I -- I have those.

24                      SEN. VAN DUYN: Okay.

25                      SEN. RANDLEMAN: We're going to be doing

1           those shortly.

2                       SEN. VAN DUYN: Thank you.

3                       SEN. RANDLEMAN: Do you have a question?

4                       SEN. VAN DUYN: No. Thank you very much.

5                       SEN. RANDLEMAN: Questions from the

6                       committee? Yes. Senator Jackson?

7                       SEN. JACKSON: Thank you. My question is  
8                       about -- let's see, Page 5, Lines 25 through 31,  
9                       regarding the Human Relations Commission. It says,  
10                      "This article does not create and shall not be  
11                      construed to create or support a statutory" --  
12                      "statutory or common law private right of action,  
13                      no person may bring a civil action based upon  
14                      public policy expressed herein." My question is,  
15                      does that modify existing law in North Carolina?  
16                      My understanding is that there is common law  
17                      regarding wrongful discharge in contravention of  
18                      public policy that, in effect, does allow for a  
19                      private right of action when someone is discharged  
20                      because of their race or because of their gender,  
21                      and how does this impact that existing common law?

22                      SEN. RANDLEMAN: Senator Newton?

23                      SEN. NEWTON: Thank you, Madam Chairman.

24                      Thank you, Senator Jackson. It -- it is my opinion

25                      and -- and my belief that the -- those of us who

1           were involved in the drafting of this language, it  
2           was our intent to keep the status quo and not to  
3           create any new private right of action. And my  
4           answer to you would be, it is my opinion that it  
5           doesn't change anything that is currently existing  
6           law as it -- as it relates to the ability to bring  
7           a cause of action for a wrongful discharge. There  
8           may be others that have a different opinion. I  
9           know that question was raised to me privately  
10          before this meeting, but that is my opinion, and I  
11          haven't seen anything as of yet that would change  
12          that opinion.

13                        SEN. RANDLEMAN: Follow up?

14                        SEN. JACKSON: So just to specify; there  
15                        is no specific objection and nothing in this bill  
16                        that is intended to end the common law wrongful  
17                        discharge in contravention of public policy. Is  
18                        that my understanding?

19                        SEN. NEWTON: That -- that's my  
20                        understanding, and that's -- that's my opinion.

21                        SEN. JACKSON: I have another --

22                        SEN. RANDLEMAN: Follow up?

23                        SEN. JACKSON: I have another question on  
24                        a different subject, but I'll take my turn if  
25                        someone else --

1                   SEN. RANDLEMAN: You can proceed with  
2 your other question.

3                   SEN. JACKSON: Okay. My other question  
4 is about Title 9 and whether this is going to  
5 impact Title 9 funding. I know the Office of Civil  
6 Rights, the Federal Office of Civil Rights, has  
7 issued legal guidance saying that sexual  
8 discrimination including against transgender  
9 students does violate -- and I know that Tennessee  
10 was considering this bill, and very recently the  
11 Republican Governor of Tennessee decided not to go  
12 forward with this bill specifically out of a  
13 concern that it would cost Tennessee billions of  
14 dollars in lost federal funding. I know that North  
15 Carolina receives billions of dollars in federal  
16 funding, and what is our level of concern that this  
17 is going to be put in jeopardy?

18                  SEN. RANDLEMAN: Senator Newton?

19                  SEN. NEWTON: Thank you. Thank you,  
20 Madam Chairman. Thank you, Senator Jackson.  
21 Again, that -- that question has been brought up to  
22 us before. We don't see any risk to federal  
23 funding under Title 9. The Obama Administration  
24 has a very -- very radical and extreme view of what  
25 would constitute discrimination against

1 transgender. And they have tried to pursue that in  
2 court, and twice, they have been rejected, in  
3 Virginia and in Pennsylvania. So the current state  
4 of the law does not hold their view, and it is --  
5 it is our view that -- that this would in no way  
6 jeopardize Title 9 funding.

7 SEN. JACKSON: Do you wish to add  
8 something?

9 REP. BISHOP: Yeah. Let me just add,  
10 so -- so there's not a -- not a case in the country  
11 anywhere that's embraced their view. It's on  
12 appeal in the Fourth Circuit and in the Third  
13 Circuit, but should that ever turn out going the  
14 other way in the future in law, there would be  
15 ample opportunity past that point. There would be  
16 an entitlement to a matter before an administrative  
17 law judge. Even after that's concluded, you have a  
18 period of time after that. So there's nothing in  
19 the doing of this that would have any impact  
20 whatsoever on that. And -- and in fact, if there  
21 were a decision that were adverse -- in -- in favor  
22 of the Obama Administration's position at some  
23 point in time, it would supersede and -- and there  
24 still wouldn't be a loss of Title 9 funding; it  
25 would just revert to a different rule, under

1                   supremacy principles.

2                   SEN. RANDLEMAN: Other questions from the  
3 committee? Yes. Senator Cook?

4                   SEN. COOK: I -- as the grandfather of  
5 two beautiful young granddaughters, I thank you.  
6 Thank you. This is much, much needed legislation.  
7 Thank you.

8                   SEN. NEWTON: Thank you, sir.

9                   SEN. RANDLEMAN: Other questions or  
10 comments? Yes. Senator McInnis?

11                  SEN. MCINNIS: Thank you, Madam  
12 Chairperson. Senator Newton, I -- I heard you say  
13 on Page 5, starting on Line 8, that we -- we found  
14 that there was a void. It appeared in our statutes  
15 that -- that left it to -- our folks were not  
16 protected against some types of discrimination, and  
17 I -- I'd just like for you to expound on that. I  
18 heard what you said, and I -- I applaud you for  
19 bringing this forward. That's one of the great  
20 things about delving into something, you find  
21 some -- you find a void in there. And this is a  
22 grand opportunity to fix something that was -- that  
23 was certainly in need of repair.

24                  SEN. RANDLEMAN: Senator Newton?

25                  SEN. NEWTON: Thank you. Thank you,

1           Madam Chairman. Thank you, Senator McInnis. I --  
2           I appreciate your comments. There -- there's a --  
3           a lot of, I think, confusion about where a citizen  
4           whose -- who's being discriminated against might  
5           have their -- their -- their way to get their day  
6           in court. And, you know, federal law on this  
7           matter has been clear for some time. North  
8           Carolina -- I'm not sure exactly why, but  
9           historically, North Carolina just had never adopted  
10          any kind of public accommodation or -- or  
11          antidiscrimination statewide policy to -- to, you  
12          know, make it clear that you -- you can't  
13          discriminate against, say, an African-American, you  
14          know, renting a hotel room, for example. And --  
15          and I think we all today agree and know and  
16          understand that that's off limits and should be off  
17          limits, but this process -- I mean -- I hate to say  
18          there's anything good about this process, but I  
19          guess this would be one of them.

20                        It became clear to us that there was no  
21          such statewide standard and policy, and it was  
22          better for us to go ahead and -- and really do more  
23          than what federal law was, and expand this  
24          protection from a policy standpoint for the state,  
25          so that -- that we -- we wouldn't be faced with

1           questions of, you know, in -- in this jurisdiction,  
2           you know, it was against the public policy to do X,  
3           Y, Z, but in that jurisdiction, it's only X and Y  
4           and -- and this jurisdiction it's P, D, Q, and --  
5           and we just thought it was important for business  
6           and for our citizens to -- to have this clear  
7           public policy statement of antidiscrimination. It  
8           was -- it was long overdue, and -- and -- does  
9           that -- that fairly -- you know, when it became  
10          clear to everybody, we were like we -- we need to  
11          do that, so thank you.

12                         SEN. RANDLEMAN: Follow up?

13                         SEN. COOK: Yes, ma'am. I just want to  
14           say I appreciate the writers and those that have  
15           put forth the thought on this, and to -- to right  
16           the wrong that we originally came here for, and to  
17           be able to -- to add some solid things that are  
18           absolutely great for our state. And on behalf of  
19           my family and my grandchildren, as Senator Cook  
20           alluded to from his, I appreciate what you're doing  
21           here today, and we'll bring this matter to a head  
22           going about our business. Thank you so much.

23                         SEN. NEWTON: Senator, may I add  
24           something --

25                         SEN. RANDLEMAN: Please.

1                   SEN. NEWTON: -- Madam Chairman. You  
2                   know, I think it would be very, very, very ironic  
3                   if -- if members chose to vote against expanding  
4                   and clarifying the antidiscrimination policy of  
5                   this state on -- on some misnomer -- some -- some  
6                   mistaken idea. It's -- it's bad enough to talk  
7                   about, you know, men and women's bathrooms and  
8                   locker rooms, but it's hard for me to comprehend  
9                   that there's members of this body that would vote  
10                  against this policy that's identified in -- in this  
11                  section.

12                 SEN. RANDLEMAN: Thank you, Senator  
13                 Newton. If the Sergeant-at-Arms will go ahead and  
14                 pass out the amendments? We have two amendments  
15                 for consideration.

16                 (Members at ease.)

17                 SEN. RANDLEMAN: The first amendment that  
18                 we're going to call is Senator Lowe.

19                 SEN. DANIEL: We need to make sure that  
20                 she gets that.

21                 SEN. RANDLEMAN: Okay. It would be  
22                 H2-ATC-2 Version 3, Senator Lowe. And I think  
23                 Senator Barringer needs a copy. Does everyone have  
24                 a copy? Staff needs copies. So the first one we  
25                 are calling forward is H2-ATC-2 Version 3, and I

1 will call on Kelly Tornow to explain the amendment.

2 MS. TORNOW (STAFF): Thank you, Madam  
3 Chairwoman. Senator Lowe's amendment amends the  
4 bill on Page 5, Lines 29 to 31 by deleting the  
5 sentence that states, "This article does not create  
6 and shall not be construed to create or support a  
7 statutory or common law private right of action and  
8 no person may bring any civil action based upon the  
9 public policy expressed herein," so it deletes that  
10 sentence.

11 SEN. RANDLEMAN: Senator Lowe, do you  
12 wish to speak to the amendment?

13 SEN. LOWE: Yes. One of my concerns was  
14 the -- that a person had no private right of  
15 action. In other words, there's no State recourse.  
16 If a person is being discriminated against, they  
17 would automatically, as I understand it, have to go  
18 to the federal level and not be able to do anything  
19 at the state level. And I -- and I have a real  
20 problem with discrimination at any level. So I  
21 think that to say that no change is taking place  
22 when indeed there is some change, is not true.

23 SEN. RANDLEMAN: Representative Bishop,  
24 are you going to respond to the amendment? What do  
25 you say?

1                   REP. BISHOP: Senator -- Senator Newton  
2                   may want to add after I do, but I would like to  
3                   respond to that. There are ample cases at this  
4                   time saying that section doesn't create a cause of  
5                   action. There is a technical question whether  
6                   there is a common law claim for termination in  
7                   violation of public policy, that this is one of the  
8                   articulations of public policy that could affect  
9                   such a claim, but in each of those cases, the  
10                  remedial of -- the remedies that are available are  
11                  far more robust under federal law as things stand  
12                  anyway. So there's no -- there's no harm.

13                  The -- they all -- the other thing is --  
14                  and what we've done is we've added an entirely new  
15                  statement of protection from discriminatory  
16                  treatment in public accommodations, and in order to  
17                  do exactly what the courts have done under the  
18                  previous -- and we've made it clear that we are not  
19                  creating a cause of action there, either. So in  
20                  other words, there -- there's not a change of  
21                  substance. There's a technical change, and it will  
22                  not undermine remedies. And that's my view about  
23                  it.

24                  And so it is -- it is -- it is a  
25                  distinction without a difference, and -- and the

1 section does -- I do want to emphasize that.  
2 There's ample numbers of cases saying that this  
3 section does not create a cause of action as of  
4 today. So I would think that it would not be an  
5 amendment that I would recommend.

6 SEN. RANDLEMAN: Senator Newton?

7 SEN. NEWTON: Thank you. Thank you,  
8 Madam Chairman. Thank you, Senator.

9 Senator, I -- I detect from the way you  
10 asked the question that there may be a  
11 misunderstanding about -- about the law, and I kind  
12 of touched on that before, about -- there's  
13 confusion about where a person goes to get their  
14 remedy. And in North Carolina, it is -- it has  
15 always been under -- under Title 7, and -- and  
16 other federal statutes that you have a right of  
17 action on public accommodation or employment  
18 practices for, say, racial discrimination, for  
19 example. So you can bring that action in state  
20 court, or you can bring it in federal court. It --  
21 it -- both -- both courts can handle the matter,  
22 but you have to meet the requisite requirements  
23 to -- to bring such an action.

24 So when we were dealing with this, what  
25 we -- what we didn't want to do was to create a

1 brand new right of action. There's -- there's --  
2 we're not changing anything in that regard in -- in  
3 this -- in this bill. We -- we felt like that  
4 would be problematic in terms of trying to get  
5 support all the way through for this provision, if  
6 we created a brand new way to sue when there's  
7 already ample ways to bring an action if one  
8 alleges discrimination of some kind under federal  
9 law, and -- and, which would -- which would fit  
10 with this -- this public policy declaration. So  
11 the short answer is, we're not minimizing or  
12 reducing a person's right to bring an action.  
13 We're just not adding a new way to bring a new  
14 cause of action.

15 SEN. LOWE: Follow-up?

16 SEN. RANDLEMAN: Follow-up.

17 SEN. LOWE: My understanding as I -- as I  
18 begin to read this is that it is something new.  
19 Right now, we can go through our state courts to  
20 deal with discrimination, and as I understand this,  
21 we can only do it through a federal system. Is  
22 that what -- am I missing something, or?

23 SEN. NEWTON: No -- that's -- that's --

24 SEN. RANDLEMAN: Senator Newton?

25 SEN. NEWTON: -- that's -- thank you,

1           Madam Chairman. That's not -- that's not an  
2           accurate -- it's -- it's -- you don't have to go  
3           through the federal system. Your -- your cause of  
4           action was created under federal law, and that has  
5           existed and continues to exist, and nothing we do  
6           here today would affect that one bit. The forums  
7           are -- are the same as they were before. You can  
8           choose to file if -- if you -- if Senator Lowe is a  
9           plaintiff -- has a cause of action, you can choose  
10          to file that in Mecklenburg County Superior Court  
11          or you can choose to file it in -- you all in the  
12          Western District, right? Federal Western District  
13          Court, so you -- the choice is yours.

14                         This doesn't change any of that, and --  
15          and -- and for that reason, I mean, I want members  
16          to understand we're kind of getting into legal  
17          weeds here. I would -- I would strongly encourage  
18          my -- my colleagues to vote against the amendment.

19                         SEN. RANDLEMAN: Other comments, Senator  
20          Jackson?

21                         SEN. JACKSON: May I speak to the  
22          amendment, Madam Chair?

23                         SEN. RANDLEMAN: Please. Proceed.

24                         SEN. JACKSON: I think there's a really  
25          good chance that there is an unintended

1           consequence, and I know it's unintended because  
2           both of our bill sponsors have -- have caught it  
3           unintended. They don't mean to be reducing an  
4           existing right that exists under common law, but  
5           that may be the impact of this. This amendment  
6           would eliminate the chance of that unintended  
7           consequence. And as for there being a federal  
8           remedy and a state remedy that exists -- it's true.  
9           There's a federal remedy exists, but there is also  
10          a state remedy.

11                         There are dozens and dozens and dozens of  
12          reported cases in which wrongful discharge in  
13          contravention of public policy have been reported  
14          in North Carolina. This is a living, breathing  
15          legal doctrine that exists in North Carolina that  
16          lots of our citizens have availed themselves of,  
17          and it may or may not go away once we pass this as  
18          written. If we adopt the amendment, we know that  
19          we protect that, and if want -- if you want to, you  
20          know, we can revisit it someday when we have more  
21          than, you know, 30 seconds to deal with all of  
22          these problems.

23                         SEN. RANDLEMAN: Representative Bishop?

24                         REP. BISHOP: Thank you, Madam Chairman.

25                         The remedies that are available under the federal

1 claim are as broad as you can imagine; back pay,  
2 front pay, reinstatement, actual damages, punitive  
3 damages, attorney's fees; all of that exists under  
4 federal law. The state law adds not one whit of  
5 remedial right.

6 To the point that you said there are  
7 thousands -- there are many cases arising under the  
8 common law right for termination in violation of  
9 public policy, that's true, but that goes outside  
10 of this. There are many articulations of public  
11 policy that could give rise to that claim, this  
12 being only one of them.

13 The remedy -- that's -- that's the point.  
14 As many of the members, the lawyer members know, if  
15 you're bringing a lawsuit, you articulate all of  
16 the claim theories in the lawsuit that you have,  
17 the different claims for relief. But what matters  
18 to a plaintiff is what remedies they can recover,  
19 what damages can they get. And to that point,  
20 that's what I am saying, there is no diminution in  
21 the remedies available whatsoever by the change  
22 that is contemplated here.

23 SEN. RANDLEMAN: Senator Newton?

24 SEN. NEWTON: I -- I would just add,  
25 Senator Jackson, you may not be aware that I've

1           practiced on both sides of these cases a number of  
2           times of the years on both sides, the plaintiff and  
3           the defense side. I -- I completely agree with  
4           Representative Bishop's characterization, and --  
5           and I'm very comfortable that -- that what we've  
6           done here is -- is the right policy and does not  
7           add any -- any new right of action, nor does it  
8           diminish anything that -- that a legitimate  
9           plaintiff would bring forth in court.

10                   SEN. RANDLEMAN: Thank you. Other  
11           comments or questions as to the amendment? Seeing  
12           none, we will call for a vote on the amendment.  
13           Those in favor say aye.

14                           (Voice vote.)

15                   SEN. RANDLEMAN: Those opposing, nay?

16                           (Voice vote.)

17                   SEN. RANDLEMAN: The nays have the vote,  
18           so the motion -- the amendment fails. Excuse me.  
19           The next amendment is H2-AST-1 Version 3. Does  
20           everybody have a copy of the amendment? I will  
21           call on staff to explain the amendment. Oh, excuse  
22           me; some members do not have copies. Everyone have  
23           a copy now? So, Kelly, if you will please explain  
24           the amendment.

25                   MS. TORNOW: Thank you, Madam Chairwoman.

1           So on Page 4, Line 28, that's Section 3.1 of the  
2           bill. That adds sexual orientation and gender  
3           identity to the list of protected classes listed  
4           there. And then again, on Page 5, Line 12, which  
5           is the -- which is Section 3.3, it does the same.  
6           It adds sexual orientation and gender identity to  
7           the list of protected classes.

8                     SEN. RANDLEMAN: Thank you. Senator Van  
9           Duy, this is your amendment, so if you would like  
10          to speak to your amendment.

11                    SEN. VAN DUYN: Thank you, sir -- I'm  
12          sorry. Thank you, Senator Randleman -- Madam  
13          Chairman. We still have not received a copy of --  
14          a correct copy of the amendment.

15                    SEN. RANDLEMAN: We're going to take care  
16          of that. If you'll hold just a second.

17                    UNIDENTIFIED SPEAKER: Madam Chair?

18                    SEN. RANDLEMAN: Yes, sir?

19                    UNIDENTIFIED SPEAKER: They did  
20          distribute another copy, but it was a -- a copy for  
21          Senator Lowe's amendment.

22                    SEN. RANDLEMAN: Okay. Making it now.  
23          I'm going to go over the amendment number again.  
24          It is H2-AST-1 Version 3. Does everybody have a  
25          copy of the amendment? Senator Van Duyn?

1                   SEN. VAN DUYN: Thank you, Madam  
2                   Chairman. I am not sure that I agree with this  
3                   bill's assumption that we need statewide  
4                   consistency in regulation of employment. I, for  
5                   example, come from a county with an extremely high  
6                   cost of living and an extremely low average wage.  
7                   And so things like encouraging living wages are  
8                   very important to my county. But nevertheless, if  
9                   we are going to standardize our [break in audio]  
10                  language statewide, I think it's very important  
11                  that we say loud and clear that North Carolina is  
12                  open to -- open for business to everyone. And for  
13                  that reason, I think it's incumbent on us that we  
14                  amend the bill to include in our nondiscrimination  
15                  language sexual orientation and gender identity.

16                  SEN. RANDLEMAN: Senator Newton?

17                  SEN. NEWTON: Thank you, Madam Chairman.  
18                  Before I comment on the amendment, may I inquire of  
19                  the amendment sponsor?

20                  SEN. RANDLEMAN: Proceed.

21                  SEN. NEWTON: Thank you. Senator Van  
22                  Duyn, how would you define gender identity in  
23                  this -- with this amendment?

24                  SEN. RANDLEMAN: Senator Van Duyn?

25                  SEN. VAN DUYN: I think -- I think

1           that's -- gender identity is how someone identifies  
2           their gender.

3                         SEN. RANDLEMAN:    Senator Newton?

4                         SEN. NEWTON:    Follow up?  Thank you.  So  
5           we don't have a definition before us in this bill.  
6           And so, being a lawyer, and knowing that issues --  
7           when you're talking about potentially opening the  
8           door for litigation -- definitions of what is  
9           gender identity would be important, so that's why I  
10          asked the question.  Would it be as -- for me,  
11          gender identity would be what is on your birth  
12          certificate, and how you were born.  And -- and  
13          you're saying that gender identity would be what  
14          you -- what a person, I guess, thinks they are  
15          today, or I don't know how else to describe it.  So  
16          that's why I'm asking you if you would define it  
17          for me.

18                        SEN. VAN DUYN:   Well --

19                        SEN. RANDLEMAN:   Senator Van Duyn?

20                        SEN. VAN DUYN:   -- thank you, Madam  
21          Chairman.  I think it is clear that not everyone  
22          who gets labeled at birth continues to identify  
23          with the gender of that label, and in fact --  
24          pursues at -- at -- at great expense emotionally  
25          and otherwise the -- the gender that they truly

1 identify with. And I think it's important for us  
2 to recognize the fact that -- that we need to be  
3 tolerant of those people, that they are, in fact,  
4 our neighbors, and they are very vulnerable at the  
5 time because of these gender identity issues. And  
6 I'm just suggesting that we need to acknowledge  
7 that -- that the gender at birth is not necessarily  
8 the gender that they -- they identify with as they  
9 develop.

10 SEN. RANDLEMAN: Senator Newton?

11 SEN. NEWTON: Thank you, Madam Chairman.  
12 Members, I would -- I would urge you to vote  
13 against the amendment, and I think that the -- the  
14 colloquy and the questions that -- that I've just  
15 had with Senator Van Duyn illustrate the -- the --  
16 difficulties of adding these categories to -- to  
17 the bill.

18 These are discussions that are very  
19 complicated, and -- and -- and very difficult, I  
20 think, for society and as well as this body to get  
21 their minds wrapped around, as well as to come up  
22 with concrete definitions for terms that would be  
23 important to establish what the public policy of  
24 this state was. And I -- I candidly don't -- don't  
25 believe that we have -- I've never had anybody

1 write to me and ask me to add this -- these kinds  
2 of things to our state policy. So I think that at  
3 this time, it would be best if we did not add  
4 anything such as this into the bill, and I would  
5 urge my colleagues to vote against the amendment.

6 SEN. RANDLEMAN: Senator Daniel?

7 SEN. DANIEL: Thank you, Madam Chairman.  
8 This is a question for Senator Newton. So, Senator  
9 Newton, I guess it is my understanding that this is  
10 the similar language or maybe identical language to  
11 what was included in the Charlotte ordinance, which  
12 then prompted responses from thousands of our  
13 citizens, which resulted in us being here in a  
14 special session this week to deal with a problem  
15 that was in only one city. So why would we then  
16 come here to undo a problem in one county, and then  
17 extend it across 99 other counties. I guess to me,  
18 I just -- I don't understand the logic.

19 SEN. RANDLEMAN: Senator Newton?

20 SEN. NEWTON: I -- I think the best  
21 response I can give is, I would agree.

22 SEN. RANDLEMAN: Senator Jackson? Other  
23 questions from the members? Comments from the  
24 members? Seeing none, we have before us Amendment  
25 Number 2 to House Bill 2 --

1                   SEN. BAREFOOT: Madam -- Madam

2                   Chairman --

3                   SEN. RANDLEMAN: Excuse me. Yes?

4                   SEN. BAREFOOT: I'm -- I'm just --

5                   SEN. RANDLEMAN: Senator Barefoot?

6                   SEN. BAREFOOT: Thank you, Madam

7                   Chairman. I'm just sitting here thinking through  
8                   this, and I agree with the bill sponsor. We don't  
9                   know what this amendment does, and I don't think it  
10                  is a wise thing to be voting on something where you  
11                  do -- you have no idea what it does. And so I'm --  
12                  I'm not sure if I'm stating this correctly, but I  
13                  think we ought to lay this amendment upon the  
14                  table, and that's my motion.

15                  UNIDENTIFIED MEMBER: Second.

16                  SEN. RANDLEMAN: So we have a motion to  
17                  lay upon the table? We have a second. This does  
18                  require a three-fifths vote in favor of the motion  
19                  to lay upon the table. So those supporting the  
20                  motion to lay upon the table, if you would raise  
21                  your hand? Can you count, Patrick? Those opposing  
22                  the motion to the lay upon the table? The  
23                  motion -- the motion to lay upon the table carries,  
24                  so the motion is not before the committee, so thank  
25                  you.

1                   So we're -- we're back to the bill. Do  
2 we have any other amendments to come forward  
3 regarding the bill? Seeing none. We had a signup  
4 sheet, and if we could have the Sergeant-at-Arms go  
5 back to monitor the time, we're going to rotate  
6 back and forth for those supporting and those in  
7 opposition of House Bill 2, and I will begin with  
8 Reverend Mykal Slack. Two minutes.

9                   MR. SLACK: Good morning, Madam Chair.  
10 My name is -- is the microphone on?

11                  SEN. RANDLEMAN: Mash the button.

12                  MR. SLACK: Is it on? I would -- I would  
13 like to have my full time. Thank you. Good  
14 afternoon. My name is Reverend Mykal Slack. I am  
15 a minister of the Christian faith; a director of  
16 congregational life at a church here in Raleigh. I  
17 am a proud African-American Southerner, a resident  
18 of North Carolina, a husband and a soon-to-be  
19 father.

20                  As a preacher, it is my job to speak as  
21 plainly as I can in all the places I'm called to  
22 with as much love in my heart as I can muster. So  
23 let me be plain and clear today. Telling a lie  
24 over and over and over again does not make it true.

25                  I am a transgender male, and I am not a

1 threat to you. Nor are other transgender people  
2 threats to you. I get up in the morning. I go to  
3 work every day. I go to church every Sunday. I  
4 kiss my wife's belly every night before we go to  
5 sleep.

6 This is not about protecting privacy. If  
7 it was, you'd be just as interested and invested in  
8 the citizens of North Carolina who are transgender  
9 people who are more statistically subject to  
10 harassment and physical violence in restrooms than  
11 anyone else.

12 This isn't about political correctness.  
13 Charlotte sought to ensure that I and other  
14 transgender people like me would feel as safe in  
15 restrooms as other people feel. The Charlotte  
16 ordinance didn't raise the bar. It actually  
17 leveled the playing field.

18 But this is -- this is about putting my  
19 life at risk. This is about, perhaps, your own  
20 fear. This is, perhaps, about a lack of education.  
21 These issues and these conversations are not  
22 difficult conversations to have; they're just  
23 conversations that perhaps many of us haven't had  
24 much. So the issue here is to have deeper  
25 conversation. Is this the kind of behavior do

1           you -- are you really interested in me being spit  
2           on and pushed around and shoved because of who I am  
3           in a restroom? I implore you not.

4                         Legislating mistreatment, hatred and  
5           misunderstanding is shameful. Not doing your  
6           homework is irresponsible. I am a child of God, so  
7           I don't need your permission to be who I am called  
8           to be, but I do need you to legislate in ways that  
9           offer protection for me and every person in this  
10          state. It is true. You should not vote on  
11          legislation or amendments that you do not fully  
12          understand the impact that they will have, so I  
13          implore you to vote no today. Thank you.

14                        SEN. RANDLEMAN: Thank you. Heather  
15          Garofalo?

16                        MS. GARAFALO: Heather Garofalo, small  
17          business owner servicing Charlotte. I have friends  
18          and family in the LGBT community, and I love them.  
19          Every American private business owner in North  
20          Carolina should be free to live and work according  
21          to their beliefs without fear of punishment  
22          unjustly by the government. In 2015, the Pew  
23          Charitable Trust organization identified the top  
24          ten states for job growth. Eight out of 10 of  
25          these states do not contain state nondiscrimination

1 laws containing language around sexual orientation  
2 and gender identity. Charlotte is beautiful  
3 because of its diversity.

4 There are many worldviews and world  
5 religions. There is strength in diversity. True  
6 equality means that everyone can speak their  
7 beliefs without fear of being silenced and  
8 punished. I am pleased to report that not one case  
9 has been filed by the ACLU in Charlotte, North  
10 Carolina alleging discrimination that may have  
11 occurred on behalf of an individual or organization  
12 against our friends in the LGBT community. As a  
13 business owner servicing Charlotte and throughout  
14 the state, I am concerned about the unintended  
15 consequences of this ordinance.

16 It lacks for me consistency, clarity of  
17 how I will do business and -- and run my policies  
18 all across the state. Furthermore, it forces me to  
19 violate my deepest held beliefs. Either I will  
20 check these beliefs at the door, or I can be  
21 subject to \$500 in fines per day; lawsuits, jail  
22 times and my business forced to close. In just  
23 nine days, if you don't overturn this ordinance,  
24 businesses across the state could have their  
25 contracts cancelled simply because they hold a

1 different worldview. A loss of contracts equals  
2 loss of revenue. A loss of revenue could equal  
3 tens of thousands of jobs lost across the state.  
4 This means financial hardship for so many families  
5 in North Carolina.

6 Our sweet transgender children deserve  
7 better than this. Switching them from one bathroom  
8 to the next does not help them with their fears of  
9 being accepted. A little girl that may dress as a  
10 boy that goes into the next bathroom could be  
11 violated. I care about them and all children.

12 SEN. RANDLEMAN: Debra Thompson.

13 MS. THOMPSON: My name is Debra Thompson.  
14 I live in Pitt County, and I come to you as a  
15 mother. My son, Sky, plays soccer. He still  
16 sleeps with his favorite stuffed animal, Charlie  
17 Cow, and he frequently makes huge messes around my  
18 house with awesome art projects. My child is also  
19 transgender. I love my child. I loved Sky when I  
20 thought he was my daughter and I love him now that  
21 he is my handsome, intelligent and very brave son.  
22 On a practical level, telling schools that my son  
23 can't use the appropriate bathroom means that my  
24 son's education is compromised. How would your day  
25 look if you couldn't go to the bathroom?

1                   I know trans youth in my community who  
2                   purposefully dehydrate themselves so they do not  
3                   have to use the bathroom at school. One of my  
4                   son's friends has had to have his mother pick him  
5                   up from school every time he needs to use the  
6                   bathroom.

7                   But this debate is about more than just  
8                   bathrooms. Seventy-four percent of youth who are  
9                   transgender are sexually harassed, and 55 percent  
10                  of them are physically attacked at school.  
11                  Twenty-eight percent drop out of school because of  
12                  this harassment, and 50 percent attempt suicide.  
13                  Fifty percent. These are statistics that scare me  
14                  to my core as a parent.

15                  This debate is about whether the state  
16                  cares about my son's health and safety. By telling  
17                  my son he's different from other kids in North  
18                  Carolina, not as worthy of protection, you're also  
19                  telling me that I'm less important than other  
20                  parents. You're giving Sky's teachers permission  
21                  to view my son as less worthy of an education.  
22                  You're giving Sky's peers permission to continue to  
23                  harass, exclude and bully him. So please protect  
24                  my son and tell him that he is just as important  
25                  and every bit as valued as any other kid in our

1 great state. Please do not legislate the right to  
2 discriminate.

3 SEN. RANDLEMAN: Donna Eaton.

4 MS. EATON: My name is Donna Eaton, and I  
5 come to you as a concerned mother. I have never  
6 shared my story before publicly, but I'm coming to  
7 you today because I felt compelled that somebody  
8 had to speak out for what was going on. You see, I  
9 was molested when I was a kid, and the trauma that  
10 I experienced in the days after and the years after  
11 was intense, to say the least. I lived in fear of  
12 finding a man in my bathroom. It -- like, I  
13 can't -- words don't begin to express what I went  
14 through.

15 When I was in Massachusetts recently, a  
16 transgender male was in the bathroom, and please  
17 understand me to say that I am not saying that  
18 anyone who is transgender is a -- is a threat to  
19 society or that they are -- in that -- predators in  
20 any way, shape or form. I believe that everybody  
21 deserves to be treated with dignity and respect,  
22 but seeing this man in the bathroom that -- with  
23 me -- brought me -- it brought me right back to  
24 where I was that years and years ago. If this bill  
25 is not passed, it is going to open the door for

1           people with malicious intent who would masquerade  
2           as transgenders to come in and actually take  
3           advantage of and have access to our kids and  
4           ourselves.

5                         I'm here to implore -- implore you on  
6           behalf of one in four women that -- who have been  
7           sexually abused that -- to vote for common sense.  
8           That if you don't stand up for this, all North  
9           Carolinians that -- are going to be at risk for  
10          being perpetually victimized. That every time they  
11          go to the bathroom, they will have to actually turn  
12          around and face this -- this unconscionable fear.  
13          So I just -- I urge you to vote in favor of this  
14          bill. Thank you.

15                        SEN. RANDLEMAN: Laura Nazario.

16                        MS. NAZARIO: Hello, my name is Laura  
17          Nazario. I'm a transgender woman from Charlotte,  
18          North Carolina. I'm an Air Force veteran, a  
19          musician, and I'm an active member of my community.  
20          There are several places where I'd rather be than  
21          where I'm standing today. I'd rather be playing  
22          guitar and writing music. I'd rather be spending  
23          time eating pasta with my Italian girlfriend. I'd  
24          rather be home where it's safe.

25                        At home, I don't have to worry about

1           whether someone will react to my masculine features  
2           coupled with my feminine presentation. I don't  
3           have to worry about someone noticing my Adam's  
4           apple or my height or my broad shoulders. At home,  
5           I don't have to worry about what bathroom to use.

6                         This is a feeling that I've grown  
7           accustomed to. The feeling that I should stay  
8           hidden. That I should not be an active member in  
9           my community. This feeling is fear.

10                        The Charlotte non-discrimination  
11           ordinance moved my city into the right direction.  
12           It helps to create an environment where I can  
13           simply live a normal life. Because isn't this what  
14           any human being would want?

15                        Removing these protections for people  
16           like me only serve to set us back in Charlotte.  
17           Not only in Charlotte, but in the entire state. I  
18           urge you not to pass this bill. Help make North  
19           Carolina a safe place for all members of the  
20           community. Thank you.

21                        SEN. RANDLEMAN: John Rustin.

22                        MR. RUSTIN: Thank you, Madam Chairman.  
23           Members of the committee, I'm John Rustin,  
24           president of the North Carolina Family Policy  
25           Council. On February 22nd, the Charlotte City

1 Council approved a set of highly controversial and  
2 hazardous ordinance changes which you've heard  
3 about today. We have three primary concerns about  
4 these ordinance changes. First, these changes mean  
5 that men can enter women's restrooms, shower rooms,  
6 bathhouses and similar facilities in any public  
7 accommodation in the City of Charlotte, placing the  
8 privacy, safety and dignity of women, children and  
9 the elderly at great risk.

10 The City's extremely broad definition of  
11 public accommodations mean this -- this new  
12 ordinance would apply to any business that provides  
13 goods or services. Essentially, any business. And  
14 there is no exception for churches, church schools  
15 and related church ministries.

16 Secondly, many citizens have sincere  
17 religious beliefs that inform the way they live  
18 their lives and conduct their businesses. Similar  
19 ordinances in other states have been used to force  
20 small business owners such as florists, bakers,  
21 photographers, bed-and-breakfast owners, and others  
22 to either conform to a government-dictated  
23 viewpoint in violation of those sincerely held  
24 beliefs or to face legal charges, fines and other  
25 penalties that have ultimately caused some to go

1 out of business.

2 The City of Charlotte should not be  
3 authorized to impose such an intolerant and  
4 unconstitutional mandate as a condition of doing  
5 business. And thirdly, Charlotte far exceeded its  
6 authority when it passed these ordinance changes.  
7 Cities and counties in North Carolina derive the  
8 full extent of their authority only from the State  
9 Constitution and acts passed by the State  
10 legislature. The North Carolina General Assembly  
11 has granted neither the City of Charlotte nor any  
12 other city in the state the authority to do what  
13 the Charlotte City Council has done.

14 If the ordinance changes are allowed to  
15 stand, they will serve as a precedent for other  
16 city and county governments to undermine proper  
17 governmental authority and to create a patchwork of  
18 disparate ordinances across the state. For these  
19 reasons, we applaud you for considering this  
20 legislation and ask that you give it your full  
21 support. Thank you.

22 SEN. RANDLEMAN: Sky Thompson.

23 MR. THOMPSON: Before I start, I'd like  
24 to ask something with everyone listening. If you  
25 have a firm belief on either side, please just try

1 to clear your mind for the next two minutes while I  
2 give my story, and please consider my side. My  
3 name is Sky Thompson, and I'm a fifteen-year-old  
4 transgender student at South Central High School in  
5 Greenville. I've dealt with bullying my whole  
6 life, and now I worry that my own state lawmakers  
7 are bullying me as well. I feel bullied by you  
8 guys.

9 In schools all over the place,  
10 transgender kids are bullied on the daily to the  
11 extent of physical attacks. Being in a public high  
12 school and not being allowed in the right bathroom  
13 for our own gender is embarrassing, and it gives  
14 bullies all the more reason to pick on us. Imagine  
15 yourself in my shoes, being a boy walking into a  
16 ladies room. It's awkward and embarrassing and can  
17 actually be dangerous to have to go to the wrong  
18 bathroom.

19 By putting this law into place, you're  
20 putting me in danger and not protecting -- or not  
21 protecting those who aren't being threatened in the  
22 first place. I've always heard people say that us,  
23 as children, have a bright future ahead, that we  
24 can be anything we want, so why is this any  
25 different? I've always been told to be myself, but

1           now I am being myself, and I'm being bullied for  
2           it. I'm being picked on for it.

3                       So, please, for the sake of my peers, my  
4           friends and myself, don't vote for hate. Vote to  
5           protect my peers, to protect myself and to protect  
6           my rights and my peers' rights. Thank you.

7                       SEN. RANDLEMAN: John Amanchukwu.

8                       MR. AMANCHUKWU: My name is John  
9           Amanchukwu, executive director for the Upper Room  
10          Christian Academy, youth pastor for the Upper Room  
11          Church of God and Christ. In the book entitled The  
12          Marketing of Evil by David Kupelian, he says that  
13          neutrality is collaboration. And in 1967, at the  
14          Riverside Baptist Church, Dr. King said there comes  
15          a time when silence becomes betrayal. When you  
16          merge these two powerful statements together, you  
17          come to find out that neutrality is a form of  
18          collaboration and betrayal.

19                      So today we push back against neutrality  
20          for the voiceless thousands of boys and girls in  
21          our public and private schools and the countless  
22          teachers, administrators and principals and parents  
23          who know the impending danger and harm of this  
24          ordinance. It's common sense that boys should go  
25          to the boys' room and girls should go to the girls'

1 room, period. I believe that God got it right in  
2 Genesis 5 and 2 when he made them male and female.  
3 If God didn't give you access to a male or female  
4 bathroom via your anatomy, neither should we give  
5 you access via ordinance or legislation, period.

6 According to the APA, as many as 98  
7 percent of gender-confused boys and 88 percent of  
8 gender-confused girls eventually accept their  
9 biological sex after naturally passing through  
10 puberty. In my closing, allow -- allow -- allow me  
11 say this: that today, I received a phone call. I  
12 got word that someone called our school and called  
13 me a homophobic bigot, and I want you to know today  
14 that if standing up for my wife and for my son and  
15 my daughter, for the precious children of this  
16 state makes me a homophobic bigot -- bigot, I will  
17 be a homophobic bigot until the day that I die.

18 SEN. RANDLEMAN: Maggie Caddell.

19 MS. CADDELL: Hello, my name is Maggie  
20 Caddell. I've heard a lot today about protecting  
21 women and girls in the state of North Carolina. I  
22 am a woman who has been seen and raised as a woman  
23 from the time I was born. There have been a number  
24 of times I've been hassled and questions --  
25 questioned in women's restrooms because of how I

1 look. The Charlotte ordinance would help me and  
2 others like me. This bill would not, but would  
3 discourage people to question my gender when all I  
4 need to do is use the restroom.

5 In addition, my partner was brought up as  
6 a girl and is now a man. However, he has not been  
7 able to change his birth certificate due to having  
8 been born overseas. Whether or not a person can  
9 change their birth certificate is based on where  
10 they were born, not where they choose to live.  
11 This bill would force him, a man with a full beard,  
12 to use women's restrooms. This bill that you're  
13 proposing would force a man with a full beard to  
14 use women's restrooms. I urge you to oppose this  
15 bill.

16 SEN. RANDLEMAN: Mark Creech.

17 MR. CREECH: Ladies and gentlemen of the  
18 committee, my name is Reverend Mark Creech, and I'm  
19 the executive director of the Christian Action  
20 League of North Carolina. I want to begin by  
21 saying that on behalf of the League and the  
22 thousands of churches that are connected to us,  
23 thank you for holding this special session of the  
24 legislature. The matter before you, as you well  
25 know, is urgent.

1                   There are some who will argue that by  
2                   overturning Charlotte's bathroom and public  
3                   accommodations ordinance, that you are  
4                   discriminating and victimizing one of the most  
5                   vulnerable groups of people in our state. I trust  
6                   that you will neither be distracted or disheartened  
7                   by such claims. It is unfortunate that the great  
8                   concepts of tolerance and compassion these days  
9                   have been often twisted to play upon our emotions  
10                  with unnecessary guilt. Tolerance doesn't mean  
11                  that we should accept all truth claims as valid,  
12                  and compassion doesn't require that we put our  
13                  women and children in danger.

14                  The Charlotte ordinance defies logic. It  
15                  caters to the interest of a very few that embrace a  
16                  purely subjective reality and then require that the  
17                  rest of us adjust our reality accordingly. That's  
18                  not tolerance or compassion; that's absurdity.

19                  The real victims of Charlotte's  
20                  ordinance are those who are endangered by  
21                  government's forced recognition that XX or XY  
22                  genetic markers are not objective, that blue is  
23                  pink and pink is blue. The real victims are  
24                  private businesses and churches forced to bow the  
25                  knee and cast their incense upon the altar of this

1 new religion of gender denial and function.

2 You don't need to have any reservations  
3 about upending this ordinance. By upending it, you  
4 will actually be exposing its true nature, which is  
5 intolerance practiced in the name of tolerance;  
6 selfish indifference practiced in the name of  
7 compassion. We commend the bill to you and urge  
8 you to pass it.

9 SEN. RANDLEMAN: The Chair will recognize  
10 Senator Newton for closing remarks.

11 SEN. NEWTON: Thank you, Madam Chairman,  
12 thank you, members of the committee and -- and I  
13 thank the members of the public who spoke to us  
14 these last few minutes. I want to make a couple of  
15 points and -- then I hope the committee will move  
16 forward with the legislation.

17 First, I'd like to say that we are a  
18 state of laws. We are a state of laws. We -- we  
19 have a constitution, and it's imperative that we,  
20 as a state, enforce those laws. And this applies  
21 to whether or not a city or county has authority to  
22 issue a certain ordinance on a certain kind of  
23 policy or not. And it's important today that we  
24 set a statewide standard about what is appropriate  
25 here in the state of North Carolina as it relates

1 to bathroom policy, or employment practices, or  
2 what we would all agree upon today should be a  
3 public policy against discrimination.

4 We are a state of laws. Assault is  
5 against the law. If I'm assaulted by someone, it's  
6 against the law. Someone else, a member of this  
7 public is assaulted, it's against the law. Those  
8 laws should be enforced. I do not wish  
9 discrimination upon anybody, and I don't believe  
10 the members of this body do either. I urge your  
11 support of the bill.

12 SEN. RANDLEMAN: Senator Bingham?

13 SEN. BINGHAM: Madam Chairman, I'd like  
14 to move that we move ahead with this bill and move  
15 for a favorable report.

16 SEN. RANDLEMAN: Do I hear a second?

17 SEN. ALEXANDER: I second, Madam Chair.

18 SEN. RANDLEMAN: Thank you, Senator  
19 Alexander. Members -- members of the committee, we  
20 have a motion to give the House bill to a favorable  
21 report. Those in support of the legislation will  
22 say aye.

23 (Voice vote.)

24 SEN. RANDLEMAN: Those opposing?

25 (Voice vote.)

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SEN. RANDLEMAN: The motion carries, and  
this meeting is adjourned. Thank you.

(End of proceedings.)

STATE OF NORTH CAROLINA

COUNTY OF WAKE

CERTIFICATION OF TRANSCRIPT

This is to certify that the foregoing transcript of proceedings held on March 23, 2016, is a true and accurate transcript of the proceedings as transcribed by me or under my supervision. I further certify that I am not related to any party or attorney, nor do I have any interest whatsoever in the outcome of this action.

This 16th day of April, 2016.

*Brad Worley*

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