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West Fargo, North Dakota

Senate Judiciary Committee
North Dakota State Capitol
600 E. Boulevard Ave.
Bismarck, ND 58505

March 12, 2025

Madam Chairwoman and Members of the Senate Judiciary Committee:

My name is Kaitlyn Neuharth. I am a 17-year-old lifelong North Dakotan, a daughter, a student, and a proud partner to my girlfriend. As a bisexual individual, I am submitting this written testimony to voice my strong opposition to House Concurrent Resolution 3013. I believe in the core values that our state holds dear—values like fairness, compassion, and opportunity for every individual. These values motivate me to speak out against a resolution that threatens to undermine the rights of myself and others like me.

I grew up embracing the values of compassion, fairness, and opportunity—values I was taught are central to North Dakota. When I asked my parents why they stayed here, their answer was always the same: "The people." Sure, the climate can be brutal, and the food may be a little bland, but the people make it all worthwhile. But now, as I witness proposals like House Concurrent Resolution 3013, I am left questioning whether the principles of "North Dakota Nice" and the values we once held so dear are being honored—or forsaken. I strongly oppose this resolution because it threatens not only the progress we've made but the very foundation of our constitutional rights.

The decision in *Obergefell v. Hodges* was a landmark moment in American history, affirming the fundamental right of same-sex couples to marry. Yet this resolution seeks to reverse that ruling, urging the Supreme Court to undo the progress made. *Obergefell* was not an overreach; it was a rightful interpretation of the Constitution in light of evolving societal understandings of marriage. The ruling was grounded in the Due Process and Equal Protection Clauses of the Fourteenth Amendment, which guarantee that all citizens enjoy the same freedoms without discrimination. Just as the Court ruled in *Loving v. Virginia* (1967) that racial discrimination in marriage was unconstitutional, *Obergefell* rightly determined that denying same-sex couples the right to marry violates the basic principles of equality under the law.

By advocating for the reversal of *Obergefell*, HCR 3013 disregards the very legal foundations that uphold our most sacred principles—justice, equality, and fairness. The message is clear: that the rights of some individuals are less important than those of others. This is not just a legal issue; it is a moral one. We cannot pick who deserves equality based on arbitrary distinctions. The Supreme Court's recognition of same-sex marriage was a reaffirmation of what America stands for: liberty for all, regardless of gender, race, or sexual orientation. The assertion in HCR 3013 that *Obergefell* "undermines" the Constitution is nothing more than a rejection of progress and human dignity.

Moreover, the appeal to "natural law" and the idea that marriage should be between only a man and a woman is a direct affront to both the Constitution and the evolving nature of our society. As society

progresses, our understanding of human rights must also evolve. The framers of the Constitution did not share our modern understanding of equality, nor would they have anticipated the full scope of civil rights we now recognize. The Constitution is a living document, meant to adapt to the times. In *Brown v. Board of Education* (1954), the Court overturned the "separate but equal" doctrine, recognizing that legal interpretations must evolve with societal changes. To argue that *Obergefell* is a misstep is to ignore the lessons we've learned from past decisions that corrected injustices.

The Declaration of Independence proclaims that all people are created equal and endowed with certain unalienable rights—among them "Life, Liberty, and the pursuit of Happiness." These rights do not cease to exist for LGBTQ+ individuals, nor should they. The decision in *Obergefell* embodies that declaration, affirming that same-sex couples deserve the same rights, protections, and privileges as any other couple. The framers of the Constitution may not have anticipated LGBTQ+ rights, but they did believe in the fundamental equality of all people. To reverse *Obergefell* would be to reject this core value of liberty and human dignity.

HCR 3013 also raises concerns about judicial overreach, but this accusation fundamentally misrepresents the role of the judiciary in our system of government. The judiciary exists not only to interpret the law but to safeguard our constitutional rights against the tyranny of the majority. In *Marbury v. Madison* (1803), Chief Justice John Marshall affirmed the principle of judicial review, ensuring that laws or actions which violate the Constitution can be challenged and struck down. The Court's role is not to legislate but to protect the Constitution from legislative overreach. The *Obergefell* decision was a rightful exercise of this power, safeguarding the rights of same-sex couples against discriminatory state laws.

To suggest that the judiciary's recognition of same-sex marriage was an overstep undermines the very principle of checks and balances that protects all of us. If this resolution succeeds, it sets a dangerous precedent—one where the majority opinion can trample over the rights of minorities without recourse. This is not how our system of government is supposed to function. The judiciary is a check on legislative power to ensure that fundamental rights cannot be taken away by popular vote or political pressure. HCR 3013 seeks to undermine this principle, weakening the very freedoms that make this country great.

This resolution is deeply personal for me. As a bisexual young woman, I have experienced the challenges of navigating a world that can sometimes feel hostile to my identity. North Dakota is my home, and it has shaped who I am, but I fear that if resolutions like HCR 3013 pass, my home state will no longer feel like a place where I can live authentically. When I think about my future here, about building a life with my girlfriend, I should feel supported by the state and its laws—not pushed back into the shadows. When I choose to stay in-state to pursue a legal degree because I love it here, I shouldn't feel like my higher education is pulling me down. And when I meet people from Wisconsin, Arkansas, and Ohio who ask if North Dakota is a good, safe place to live—one that won't treat them like their home states—I shouldn't have to feel compelled to lie. I don't want future generations of North Dakotans—my trans younger brother, my queer friends, babies who have yet to be born—to feel the same fear and uncertainty that I feel in the face of such resolutions.

Obergefell v. Hodges wasn't just a legal victory; it was a recognition of the inherent dignity and equality of all Americans. Reversing that decision would erase progress and deny the truth that love is love, no matter who it's between. I ask you to consider the long-term implications of passing this resolution—not just for LGBTQ+ individuals, but for the future of North Dakota itself.

In closing, I urge you to reject this resolution and stand by the values that truly make North Dakota a place of fairness, equality, and opportunity for all. We should be a state that welcomes diversity, embraces the full humanity of its citizens, and protects the rights of every individual, regardless of their sexual orientation. I hope that, in the years to come, we can look back on this moment and be proud that we chose to protect the rights and dignity of all North Dakotans.

Thank you for your time and consideration.