



To: Members of the Education Committee

Cc: Speaker Jim Scheer

From: ACLU of Nebraska

Date: January 17, 2017

Re: LB 62 (*Scheer*) Eliminate prohibition on teachers wearing religious garb

Honorable Senators:

The ACLU of Nebraska is a non-profit, non-partisan organization that has worked tirelessly for over 50 years to defend and strengthen the individual rights and liberties guaranteed in the United States and Nebraska Constitutions through policy advocacy, litigation, education and community empowerment. Today, we proudly represent approximately 2,500 card-carrying members and 13,000 advocates and supporters throughout our great state and represent more than 500,000 members nationwide. Last biennium our organization took a position on over a hundred unique pieces of legislation and our position prevailed an impressive 76% of the time.

Religious freedom is one of our most treasured liberties, and is a fundamental human right and a defining feature of our national character. For our religious liberty to thrive in this country, it is ideal to have a policy of which our government cannot tell us whether, when, where, or how to worship, and cannot take sides on matters of faith.

While government need not be hostile to religious belief or expression, it certainly should not promote or advance a particular religion. Public schools must maintain religious neutrality and public school teachers, who are employees and agents of the public schools, must maintain this objective. Teachers should not participate in religious activities or advocate a particular religion when teaching or counseling students or acting as representatives of the school.

LB 62 eliminates a statutory provision which prohibits teachers from wearing or having religious garb. This present statute is likely constitutionally suspect as it makes it a crime for a teacher to merely wear or have religious garb in schools, regardless of whether the teacher advocates or expresses a religious viewpoint, or even whether students see or observe the religious garb.

Repealing this statute will not eliminate the prohibition against government endorsing or advocating religious worship in our public schools. Teachers, as private citizens, are entitled to religious belief—and this includes all types of religion. However, the State still has a constitutional obligation to prohibit teachers from proselytizing or advocating their religious beliefs. The repeal of this statute will not eliminate this obligation.

Respectfully,

Christopher Eickholt  
Attorney at Law and Lobbyist for ACLU of Nebraska