

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board March 28, 2022

HUGHES: [RECORDER MALFUNCTION] Dan Hughes, I am from Venango, Nebraska. I represent the 44th Legislative District. I serve as Chair of the committee. The committee will take up the LR that is in front of us today. Our hearing today is your part of the public process for the legislative-- Legislature. This is your opportunity to express your position on the proposed legislation before us today. I ask that you abide by the following procedures to better facilitate today's proceedings. Please silence or turn off your cell phones. The order of testimony is introducer, followed by proponents, opponents, neutral, then closing by the introducing senator. If you are testifying, please fill out a green sheet, the form that is found at the back of the room. Hand in your green sign-in sheet to the page or the committee clerk when you come up to testify. Spell your first and last name for the record, as you begin testifying. Speak clearly into the microphone and be concise. Because we are a lunch hour committee, I will ask that you keep your testimony to three minutes. When you see the yellow light come on, that means you have one minute remaining. The red light indicates that your time has ended. Questions from the committee may follow. If you do not wish to testify today, but would like to record your name as being present at the hearing, there is a separate white sheet on the tables that you can sign in for that purpose. This sign-in sheet will become an exhibit in the permanent record of-- at the end of today's hearing. We ask that you please limit or eliminate handouts. If you do have handouts, the materials may be distributed to committee members as exhibits only while testimony is being offered. Please make sure you have at least 13 copies and give them to the page when you come up to testify. They will be distributed to the committee and staff. The committee members with us today will introduce themselves starting on my left.

LOWE: John Lowe, District 37, the southeast half of Buffalo County.

PANSING BROOKS: Patty Pansing Brooks, Legislative District 28 right here in the heart of Lincoln.

HUGHES: And to my immediate right.

VARGAS: Tony Vargas, District 7, downtown and south Omaha and I serve as Vice Chair.

McCOLLISTER: John McCollister, District 20, central Omaha.

HUGHES: And our committee staff with us today, to my left is the legal counsel, Janice Satra, and to my far left is committee clerk, Mandy

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Mizerski. So with that, oh, we do have Kate is our page today. So thank you, Kate, for helping us out. We will open our hearing on LR307. Senator Cavanaugh, welcome to the Executive Board.

M. CAVANAUGH: Thank you, Chairman Hughes, and I do believe to set your mind at ease, I think that this is just a group showing up to oversee our process, not all my testifiers. So thank you for having me here for LR307. My name is Machaela Cavanaugh, M-a-c-h-a-e-l-a C-a-v-a-n-a-u-g-h, and I have the privilege of representing District 6 in west central Omaha in the Nebraska Legislature. The Legislature is a unique place to work. However, our staff and each elected official needs to be treated professionally or at least with respect. Our current workplace harassment policies do not reflect a commitment to the professional workplace we should aspire to. The recent incident surrounding staff and a senator with inappropriate behavior really highlighted how inadequate our system is. So I introduced LR37 [SIC - LR307] as a temporary Special Investigating-- Ethics Investigative Committee with eight members, four male, four female, to review our workplace harassment policies and suggest a composition and of a-- and suggest a composition, and of a permanent ethics committee and a set of policies that truly address the workplace harassment to the full Legislature. So it's a pretty straightforward LR. It's asking, basically, I'm asking you all to appoint a special committee to do this over the interim. And then when we come back next session, hopefully we will have some strong policies to enact moving forward.

HUGHES: OK.

M. CAVANAUGH: I'll take any questions.

HUGHES: Thank you, Senator Cavanaugh. Are there questions from the committee? I guess so you're asking us for-- to look at our harassment policy?

M. CAVANAUGH: So our work, I mean, really our workplace harassment policy and see what we can be, but also look at the feasibility of creating a special ethics committee as well.

HUGHES: OK, so you want two, actually two different focuses; one to look at our policies--

M. CAVANAUGH: Yeah.

HUGHES: --see how they can be upgraded, strengthened--

M. CAVANAUGH: Yes.

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HUGHES: --you know, streamlined, whatever.

M. CAVANAUGH: Right.

HUGHES: And then also look into some sort of an ethics standard or an ethics committee?

M. CAVANAUGH: Committee was my initial intent. I don't have like an end goal because I think that-- it's just I think we need to start the process. And so right now, it's just starting the process and seeing where it takes us is my goal.

HUGHES: So and then this special committee would then make a recommendation to the next--

M. CAVANAUGH: Legislature.

HUGHES: --Legislature and they would have to change their rules or adopt-- change their policies. Is that the way you see this playing out?

M. CAVANAUGH: Yeah. So I would anticipate that the committee would give their recommendations and I don't want to restrict what it is they can recommend. And then from there, the next Legislature will take that up and decide if they agree with the recommendations or not. And just like everything else when we have a special committee, we have to introduce the bills and all of those things to make it happen.

HUGHES: OK, so-- and your only recommendation was that it be four male and four female.

M. CAVANAUGH: Yeah, I thought that having a gender balance was important.

HUGHES: So no geographical, no party affiliation, anything like that.

M. CAVANAUGH: I'm happy-- I'm happy to amend that for the committee.

HUGHES: No.

M. CAVANAUGH: Yeah.

HUGHES: I'm just trying to clarify.

M. CAVANAUGH: But no, I did-- I did not have any-- anything specific beyond having a gender balance.

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HUGHES: OK, so then do you think that any person that would be on this ethic committee, would it be inappropriate for someone on this committee to have been called in for a workplace harassment at all?

M. CAVANAUGH: I, I would leave that up to the judgment of the Executive Board to decide if it's appropriate or not so no.

HUGHES: OK. Any questions from the committee members? Senator Pansing Brooks.

PANSING BROOKS: Thank you. Thank you, Senator Cavanaugh, for bringing this forward. I just want to say that I think it's interesting to see the efforts and attempts to have-- to create an ethics committee or a commission in the past. So thank you for giving us that. I was here when Senator Kuehn attempted it a couple of times. And so I appreciate that reminder of this effort in the past, and I think it's a good one.

M. CAVANAUGH: Thank you.

PANSING BROOKS: Thank you.

HUGHES: Any other questions from the committee members? Seeing none, thank you for coming in today,

M. CAVANAUGH: I probably won't close because I don't know if there's anyone after me. So I just want to say that I know that there's two other-- Senator Slama has an LR and so does Senator DeBoer. And if it doesn't make sense or to amend language from this one to the other ones, I'm open to all venues moving forward.

HUGHES: OK, thank you.

M. CAVANAUGH: All right. Thank you.

HUGHES: So with that, we'll open it up to proponents of LR307. Anyone wishing to testify in favor of LR307? Welcome.

JOEY LITWINOWICZ: Well, thank you, Senator, Chairman Hughes and members of the committee. Hi, my name is Joey Litwinowicz, J-o-e-y L-i-t-w-i-n-o-w-i-c-z. And I just want to say I am in favor of this bill because an analogous situation in dealing with the ethics of how someone's treated when, when dealing with a situation where parity should be maintained between those that are disabled and those that are abled as far as access to the committee chamber. And ethics would deal with, you know, in particular, how I was treated. You know, the green light hadn't yet come on as far as the health mandate in the

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city. And-- but, but you know everybody-- and I have pictures of people in the bleachers. You know, and-- and it was-- and the-- oh, I should say, the disabled, the mobility disabled used to have access to the floor. In fact, one time I went and there was a Red Coat and he said-- this is one of the first times I went to-- just in front of the doors. And, and so he said, do you want to go in here? And I said, OK and I went in. I went halfway in and, you know, there's a bottleneck often there. And I said, nah, I'll just go back here. And I never did it again. And the problem is, is that, you know, COVID and, you know, people couldn't access the Chamber and there were limitations on staff and everything like that. Well-- just a second. Yeah, and that was fine, you know COVID. And I don't know how long before maybe the common practice, it was a common practice to-- to do that. And, and so-- sometimes I have these cognitive issues. What was I just saying? It really helps it, [INAUDIBLE] specific.

HUGHES: You were talking about COVID.

JOEY LITWINOWICZ: Covid, right. And so I understood that. But then when I, I, I talked to the person in charge of this, that makes [INAUDIBLE] and, and so-- well, first of all, I went to the office and I was told that it was policy not to be able to access the floor because, you know, of COVID. And I said well-- and, and it kept being repeated. And I said, policy, well, that's the very thing we're talking about. And, and so I pointed out that the "mobily-abled" could access the bleacher seats and I couldn't access the back of the floor. And so I just wanted to-- you know, disabled people, we lose things, you know, and sometimes it's not intended. Like over the years, you know, and maybe it was even discontinued before COVID. But you know what? These things, they lapse, these-- for the disabled all the time. And so I thought it was important. At first I thought the Governor spoke at the end of the session. I could get to that later, that was funny. But the real reason is that we should be able to access the floor right away. Why do we have to always wait? So I have pictures of people in the bleacher seats, none of them are wearing masks. And actually, you know, if you're thinking about, I think the particulate of it would rain down according to how things fall anyway. But nobody on the floor is wearing a mask anymore. You know, that was cool because it was appropriate, right? Anyway, so, you know, I said, come on in. It was mentioned that, you know, at first the person in charge said, well, Pat Lopez, you know, had to talk to the health department. And I said, come on, you know, basically, you know, you know, there's a force field between anything that she says and this building. You know, it's like a-- like a castle unto its own. And so-- and first I was, I was told that and I think that argument and then I was told,

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oh, wait a minute, that-- that they had to talk to other people when I ultimately found out that he could make the decision completely by himself. And so I got strung along for two. First, he said, just try for two weeks and instead of-- and then when the light became green, it's still happening, right? I-- we got a green light. And so, you know, just when I found out, I don't remember even how I found out that I could, that the custom had stopped. And then I realized, OK, COVID. But when I did, it was it was like, well, you know, why can't we, you know, enter the floor? And so a lot of times we had to wait for all kinds of things. So why couldn't we have achieved immediate parity with access to the Chamber? Right? And so what's the problem with that? Why can't we do it right away? Why do the disabled people always have to wait? And that's the real issue at hand. And it doesn't make any sense to me. And when I feel-- I'm a street smart person in these kinds of matters. The people I grew up around. I was a, in a peasant family, but two of my siblings were married into one you know, with connections. We have, you know, in fact, one time I got arrested just to give validation of my-- I-- one time I got arrested for armed robbery warrant. It turned out to be a civil traffic violation. These things happen all the time in New Orleans. And so I went to the Orleans Parish Prison tank, which is a neat place. And then-- and so I barely got a call out at 10:30 and then I got it and I said where I was. And then my brother-in-law called his dad and I was out the next morning. I'm just giving what happened to me. I was out in the morning at 6:00 a.m. I didn't even have a ticket on my truck and it was parked on Decatur Street. And so I was the first one out and that doesn't-- and the whole thing is to understand that that never happens.

HUGHES: Your red light is on.

JOEY LITWINOWICZ: OK.

HUGHES: If you could wrap up, please.

JOEY LITWINOWICZ: Yeah. So what-- what I would like is to look into the ethics of why-- why don't we put a amendment almost like a, you know, big amendment that includes this issue of dealing with the ethics of-- of-- of dealing with at least me in this situation because it was unethical to do so.

HUGHES: OK, very good. Thank you, sir.

JOEY LITWINOWICZ: Thank you.

HUGHES: Senator Pansing Brooks.

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PANSING BROOKS: Thank you. Thank you for coming, Mr. Litwinowicz. You have talked to me out in the hall--

JOEY LITWINOWICZ: Ms.

PANSING BROOKS: Pardon me?

JOEY LITWINOWICZ: Ms.

PANSING BROOKS: Ms., I'm so sorry. I'm so sorry.

JOEY LITWINOWICZ: If it happens again, if it's not intentional, who cares?

PANSING BROOKS: Well, I'm so sorry. I should have asked, and I think I knew, so. Ms. Litwinowicz. So I was making sure I got your last name for sure too, so. But I think it's-- I do think that we need to discuss that. I know that there-- that you did go to the Speaker's office about this issue. And it does seem like it might be an Exec issue about whether or not people who are disabled or who are in wheelchairs are able to access. It seems to me that it's a-- it's an equal protection besides a disability rights issue. So, you know, clearly people who are not disabled can go upstairs and hear clearly in the Chamber and so.

JOEY LITWINOWICZ: And why couldn't it happen immediately, that's to the point. Why couldn't it because we always wait?

PANSING BROOKS: Yeah, and we aren't talking about a lot of people. So anyway, I-- I hear what you're saying. I think it's important and I-- I think we need to solve this sooner rather than later so.

JOEY LITWINOWICZ: That'd be great if it could be done before the end of session. That's what I was shooting for anyway.

PANSING BROOKS: Well, it just seems like something we can handle and something that we don't want to look at any kind of litigation against the state on. So thank you for coming.

JOEY LITWINOWICZ: Exactly. Exactly.

HUGHES: OK. Any other questions from the committee? Senator Hilgers.

HILGERS: Thank you. Sorry for missing your testimony. I was on a different subject, but we've had a number of conver-- just to let the

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Board aware and the public, we've had a number of conversations and we'll have it resolved before the end of session.

JOEY LITWINOWICZ: OK, well, that's cool. And that's all I wanted. You guys have a good one.

PANSING BROOKS: Thank you.

HUGHES: OK. Thank you for coming in and testifying today. Are there any other proponents to LR307? Any additional proponents? Are there any opponents to LR307? Seeing none, is anyone wishing to testify in the neutral capacity? Seeing none, Senator Cavanaugh, you're welcome to close. We do have one letter that came in neutral on this issue. Senator Cavanaugh waives closing, and that will end our hearing today on LR307. For the Board's--