

**HANSEN:** All right, good morning and welcome to the Executive Board. My name is Senator Ben Hansen. I represent the 16th Legislative District and I serve as chair of the Executive Board. We'll start off having members of the committee and committee staff do self-introductions, starting on my far right with Senator Clements.

**CLEMENTS:** Rob Clements, District 2.

**MCKINNEY:** Terrell McKinney, District 11.

**BALLARD:** Beau Ballard, District 21.

**BOSTAR:** Eliot Bostar, District 29.

**IBACH:** Teresa Ibach, District 44.

**DORN:** Myron Dorn, District 3.

**FREDRICKSON:** John Fredrickson, District 20.

**ARCH:** John Arch, District 14.

**JACOBSON:** Mike Jacobson, District 42.

**HANSEN:** Also assisting the committee is our committee clerk Natalie Schunk and our legal counsel Benson Wallace. This morning we'll be holding a hearing on LR282, and because this matter concerns the internal workings of the Legislature, we will only be taking invited testifiers. A few notes about our policy and procedures. Please turn off or silence your cell phones. Any handouts submitted by testifiers will also be included as part of the record as exhibits. We would ask if you do have any handouts, that you please bring 12 copies and give them to the clerk. When you come up to testify, please begin by stating your name clearly into the microphone, and then please spell both your first and last name. The hearing will begin with the introducer's opening statement, followed by Senator McKeon or his representative, followed by Tara Paulson. On a side note, the reading of testimony that is not your own is not allowed unless previously approved. And we do have a strict no-prop policy in this committee. So with that, we will begin the hearing on LR282, and I'll hand over the reins to Senator Ibach.

**IBACH:** Thank you, Senator Hansen, go ahead.

**HANSEN:** Good morning, Vice Chair Ibach and members of the Executive Board. My name is Ben Hansen. That's B-e-n H-a-n-s-e-n. I represent the Legislative District 16 and serve as chairperson of the Executive Board. Today, I'm presenting LR282 on behalf of the Executive Board, which introduced this resolution unanimously. LR282 addresses a serious matter, the recommendation to expel Senator Dan McKeon from the Nebraska Legislature. This resolution follows a formal investigation conducted in accordance with the Nebraska Legislature's workplace harassment policy. On September 3, 2025, a special personnel panel was formed to address a formal complaint of workplace harassment against Senator McKeon. This included retaining outside counsel to conduct an independent investigation. The investigation substantiated several violations of our workplace harassment policy, including an inappropriate sexual remark made to a female staff member at a work-related party which falls under prohibited sexual-orientated jokes, stories, or discussions, inappropriate physical contact, specifically intentionally brushing up against a female staff member at the same event. Additionally, following the complaint and a directive from the Executive Board to have no further contact with the complaint, Senator McKeon violated that directive by attending staff events on the evening it was issued. Further on, or about August 7, 2025, he engaged in retaliatory conduct by texting a colleague and insinuating that the complaint was difficult to work with in violation of our workplace-- of our policy on retaliation. The resolution also notes that Senator McKeon's actions have created a perception of hostile workplace with staff from other senators expressing fear about being in proximity to him, disrupting the collaborative environment central to our legislative work. Public statements by Senator McKeon at public events have minimized the conduct, claiming nothing happened, that it was not a big deal, and suggesting others were out to get him, demonstrating a lack of accountability and remorse. He has also indicated an intent to continue similar behavior stating he might still occasionally have a bad joke slip out and referring to those who take offense as eggshells who should avoid me. There is evidence of an early pattern, including inappropriate jokes in his first week in office in the presence of female staffers, and additional confidential complaints pending before the Executive Board regarding unprofessional and inappropriate language toward colleagues and others. Taken together-- excuse me-- these findings indicate a pattern of improper behavior and lack of accountability that is unbecoming of a member of the Nebraska Legislature. His conduct has brought this institution into disrespect and disrepute, shaken the confidence of fellow senators in his ability to adhere to senatorial traditions of decorum,

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and violated established policies. On December 13, 2025, the Executive Board met and unanimously recommended expulsion pursuant to Article III, Section 10 of the Nebraska Constitution and Rule 2, Section 6 of the Rules of the Nebraska Unicameral Legislature, which require a two-thirds vote of all members elected for expulsion. LR282 resolves that Senator Dan McKeon be expelled from the Nebraska Legislature for his pattern of improper behavior and lack of accountability. If approved, a copy would be transmitted to Governor Jim Pillen to address the resulting vacancy in the 41st District. Colleagues, this is a weighty matter and the first time the Legislature has considered expulsion of a senator. The Executive Board takes the responsibility seriously in upholding a respectful, professional, and safe workplace for all staff members. We believe these substantiated findings and the ongoing impact warrant this action to protect the integrity of the Legislature. I'm happy to answer any questions that you may have and to provide additional context as needed. Thank you for your time and thoughtful consideration. And on a side note, I would encourage all members of the Executive Board and all listening to seriously listen to what Senator McKeon says. I think this is his ability now to state his opinion, his facts, and what he feels about the situation along with others. So like I mentioned before, this is a serious matter and I think we need to all take it seriously, which I think we do. And so that's all I encourage from the Executive Board and all those listening as well, so. Thank you.

**IBACH:** Thank you, Senator Hansen. Are there questions from the committee? Seeing none, thank you very much. We'll now invite Tara Paulson-- or Senator McKeon-- is he here-- oh, there he-- or his representative.

**HANSEN:** Welcome.

**PERRY PIRSCH:** Welcome. It's great to be here. Thank you. My name is Perry Pirsch, and it's an honor for me to be able to address this body today. I am very sorry to be here under these circumstances.

**HANSEN:** Mr. Pirsch, if I could? Could you spell your first and last name for me, please?

**PERRY PIRSCH:** Sure, it's Perry, P-e-r-r-y, Pirsch, P-i-r-s-c-h.

**HANSEN:** Thank you.

**PERRY PIRSCH:** So again, it's a great honor for me to be here today and to represent Senator McKeon in this serious matter. I am sorry to be here under these circumstances and to address you all on LR282, the expulsion resolution for Senator McKeon, which is, of course, the most severe sanction that this body can impose on a member. Now, I don't take this moment lightly. I understand the gravity of the allegations that have been made, the legitimate concerns for staff safety and dignity, and the reputational risk to this institution when a member's conduct becomes a matter of public controversy. I understand the reasons for the Executive Board to act with unanimity on the resolution and for suspending the rules and for the Governor to publicly call for a resignation. And Senator McKeon is here in good faith in the spirit of Lincoln's second inaugural address with charity for all and, and malice towards none. He would very much like to put forward a statement of what has and has not occurred and to put this matter behind him and this body so that you guys can focus on the important work in the legislative session to come. I also understand something else, expulsion is not simply discipline, it is the Legislature nullifying an election and removing a representative chosen by the voters of Legislative District 41. This is a matter of historic significance today. I understand that there has never been an expulsion previously in the Legislature. I hope to insist-- I hope to assist the senators constructively in consideration of this endeavor. But I do ask that you keep an open mind and consider five important principles before the vote tomorrow: substantive due process, proportionality, precedent, workplace safety, and voter integrity. Under the Nebraska Constitution and your rules, an expulsion requires a two-thirds supermajority of all members elected. I submit it is designed to be rare, reserved, and exercised only when the record and circumstances truly demand it. For reasons I shall elaborate today, I ask you to vote no on expulsion, not because this body should tolerate misconduct by a member, not because staff concerns are unimportant, I ask you to note no because the cause for expulsion is not supported by the kind of clear, fair, and competent process and record that should precede this unprecedented action. In contrast, there are more proportionate, effective alternatives that the Legislature and, and this committee can consider that protect staff, protect this institution, and still respect the voters of Legislative District 41 who entrusted Senator McKeon with office. I'm sorry, Senator McKeon. Well, today is not about me. I would like to share with you a little bit of my background that may or may not be relevant. When I was in first grade, my mother was elected to the State Legislature. This was long before term limits. And she served on behalf of Legislative

District 10 for the next 18 years, all the way to when I was through college. While in college, I interned here in the Legislature for another woman senator for credit towards my bachelor's in political science. During law school, I worked for the Nebraska Department of Justice, and as a young Assistant Attorney General after graduating, I worked in the civil litigation department and defended the state from lawsuits, including claims of hostile work environment and unlawful retaliation. Later I moved to Washington, D.C., and I ended up working as legislative counsel to Congressman Terry and finished a master's in public administration from George Mason. After about 5 years in Washington, I ended up returning to Nebraska to again work in the State Capitol for the Nebraska Auditor of Public Accounts and then shortly thereafter as deputy and counsel to the State Treasurer. And during this time, my brother Pete was elected to serve as a senator for Legislative District 4. Since that time, I've been in private practice for approximately 17 years and I have worked both sides of the streets for employers and employees in employment law issues. Now, I don't tell you my background to impress upon-- or impress you, but rather to impress upon you, I've been in politics, and Capitol politics, and privy to some of the gossip and secrets of this building through most of my life. In fact, I'm sure that in some respects, I have more institutional knowledge of this body than some of you due to term limits. Well, not before the body today and some of the history of, of bad acts are not before the body today. I could provide you stories of actions of officials that warrant expulsion, but this is not one of them. Before I go any further, too, I'd like to start off where Senator McKeon started. When he got the incident in question called to his attention that he had offended a staffer with his conduct and with his words, he started with an apology. Again, Senator McKeon deeply regrets giving offense at the sine die event that has caused sincere discomfort through a combination of word and deed. He sincerely regrets an ill-advised pun intended for levity and a pat on, on the back that has become part of a dispute that has now unfortunately consumed and distracted the work of this body and placed a staff member himself and this process at the center of unwanted attention. Further, Senator McKeon believes, as a family man and a Christian, no one should ever come to work in this building and feel unsafe, belittled, or disrespected. But I will also state plainly, we do not believe the public narrative that has developed was a fair and accurate description of what has transpired or his public record. Further, we have been consistent from the beginning. There is a dispute to the facts. We believe it is altogether just and proper that Senator McKeon reject the exaggerated narrative and distortions while

still acknowledging his mistake and what he should have done differently. And we will do differently in the future because that's what accountability is really all about. So turning to due process, substantive due process, LR282 suggests a series of findings and allegations that concludes that Senator McKeon should be expelled for a, quote, pattern of behavior and lack of accountability. For the next few minutes, I ask you to keep an open mind and, and examine the evidence and reasonable conclusions with me, and ask yourself whether this extraordinary remedy is warranted. An extraordinary process that would override the will of the voters and create a dangerous precedent for this body. Now, as an attorney, I am used to trials grounded in the rule of law and due process with a clear burden of proof. In civil cases, a preponderance of evidence, and in criminal cases, beyond a reasonable doubt. There are also the material elements of the actions that are understood by the parties in advance. We have the ability to consult with the statutes, jury instructions, the case law. Now, currently in the matter today we understand that before this body this is a political question and the will of a supermajority controls as arbitrary and capricious as it might be. Our constitution and the rules of the Nebraska Legislature are guardrails in this matter that protect every senator when questions arise in regard to his actions, however well intended, especially when they become unpopular and when the truth becomes entangled with political momentum. Substantive due process should dictate more than just notice and an opportunity for Senator McKeon to be before this body today to have any real value. They should require an opportunity to present evidence, an opportunity to confront meaningfully witnesses and evidence, and to challenge and appeal the basis for any sanction. Now, years ago, studying criminal justice at the University of Nebraska, I recall a professor, a prosecutor, an adjunct professor from the county attorney's office who noted that if the courts were 99% accurate in criminal matters, there would still be about 6,000 people going to prison or jail every year for crimes they didn't commit. And that experts don't believe that we're nearly that accurate. But these are courts of law and, and bodies where professionals are entrenched, constitutional protections exist. And these are protections that my client has not afforded here. But in plain terms, if we are going to take the extraordinary step of expulsion, we should be certain the accused senator has been told in full what the case is, has had a fair chance to respond and the public can see the basis for the decision. First, I submit that the body should decide what standard is for removal in regard to the burden of proof. Is preponderance of the evidence sufficient should it be beyond a reasonable doubt? I would submit to you that in light of the gravity

of the situation, the, the correct burden of proof may in fact be clear and convincing evidence, such that the evidence produces a firm belief in a material fact and controversy that is highly and substantially more probable than not, and not just more likely than not. Second, I would note LR282 itself highlights additional due process problems, it relies not only on the investigated incident, but also on allegations it describes as, quote, not formalized as a complaint and, quote, additional confidential complaints pending before the Executive Board. If those allegations are part of the basis for Senator McKeon's expulsion tomorrow, the Legislature is effectively being asked to vote on matters Senator McKeon and I have not been provided evidence, cannot meaningfully attest, and cannot rebut. This is not an adjudicative process, it's literally not much better than a witch hunt. The allegations in LR282, as written, we note do not match the facts. Maybe they partially represent the allegations of the accuser in the matter, who has not been subject to cross-examine-- cross-examination yet, but I have cross-examined Senator McKeon and I find him credible. If there are additional allegations, disclose them with specificity, let Senator McKeon respond, let the body evaluate them through regular order. A two-thirds vote to expel the senator should never rest on allegations that remain confidential even when the member has been accused. Your rules in the constitution do provide for expulsions, but they do not, do not say it can be accomplished on disputed evidence by rumor, insinuation, or undisclosed complaints. The recitals in LR282 include references to complaints pending and alleged incidents not formalized as a complaint. And, again, if these allegations are being relied upon, substantive due process fundamental fairness requires notice of the alleged specific conduct at issue and meaningful opportunity to respond. To my knowledge, Senator McKeon has not been provided any reports, findings, or notices concerning any additional allegations beyond the matters addressed and we cannot rebut what we cannot see. Additionally, Senator McKeon has consistently asked for understanding that the facts are disputed. The factual claim should be examined, challenged, and weighed transparently. There should be clear standards for the burden of proof and what constitutes expellable conduct that is applied consistently and proportionately, recognizing the difference between contested allegations, actual legitimate concerns, and proven misconduct to justify overriding the will of the voters. Second, I ask you to consider proportionality. This matter has been investigated by both outside counsel and by law enforcement. My understanding from public reporting is that the outside investigation concluded that the incident with Senator McKeon did not meet the legal

threshold for an actionable claim of sexual harassment, but did violate the Legislature's workforce harassment policy. I believe that that distinction matters. Furthermore, the Lancaster County Attorney's Office, which also reviewed the evidence and the law came back and charged Senator McKeon with a Class III misdemeanor of disturbing the peace, not sexual assault, not public indecency, and this was not the result of a plea agreement. This was, according to the news article, having reviewed in the facts and the law what the charges would warrant. As I noted, there is a separate criminal matter pending. And at this time, Senator McKeon has a not guilty plea. We are not, of course, asking this body to make a decision in a criminal matter, but, rather, we are asking this body not to use expulsion as a substitute for the courtroom. And not to impose the political equivalent of a life sentence based on a record that has not been fully tested in a transparent proceeding where witnesses are subject to cross-examination as a constitutional right. Expulsion is the strongest disciplinary measure that this body can take. It is rightly reserved for conduct that is so incompatible with the office that no other remedy suffices. Even the resolution itself acknowledges that expulsion has never been done before in Nebraska. This alone should cause caution, not because we have never done it as an excuse to do nothing, but because the first time that this body does it, it will set the standard for every future time. So what is the conduct that is undisputed? The resolution and the public reporting revolve around one work event at the sine die party, an alleged remark and touch. Senator McKeon has acknowledged he made an ill-advised pun during a brief conversation about travel plans. He acknowledged what he believed to be a brief nonsexual pat on the back as he departed. He regretted giving offense. He did not concede to more serious allegations that have been suggested. The dispute is significant and the consequences that you are asking the body to adopt are final. If the Legislature believes that there was not an actionable sexual harassment that occurred and that the county attorney's office could find cause for a charge of only disturbing the peace and that this is, in fact, a policy violation that has occurred, then there are many tools short of expulsion: formal censure, loss of committee assignments or leadership opportunities, restrictions on certain events, additional training and coaching, written directives with enforceable consequences, and continued physical separation and no-contact requirements. Those measures protect staff without overturning an election on contested facts. Again, touching upon third precedent of this body, it's my understanding that there has only been one prior act of censure by this body in regard to a senator who participated in a blackmail

scheme, that expulsion has never been done before, although In my institutional knowledge, perhaps it should have been on different occasions for a variety of, of reasons. I can tell you that there are repeatedly throughout the years known instances of, of senators having illicit relationships with their staffers and receiving gifts, doing other things that I would characterize as far more serious than the disturbing the peace to which Senator McKeon has been charged. The constitution requires a two-thirds vote of all members to be-- of all members elected to expel, to expel Senator McKeon, to prevent the Legislature-- to prevent it from becoming a reactive body of whenever political pressure becomes intense. If expulsion becomes an answer to disputed allegations and incomplete records, then no senator, regardless of party ideology or popularity, is secure from similar efforts in the future. In short, you're setting a dangerous precedent to move to expulsion based on uncooperated statements. Now, we don't want a Legislature whose discipline is driven by headlines, social media outrage, or fear of what tomorrow's editorial might say. We want a Legislature where we protect staff, where you enforce your policies and protect the integrity of the democratic mandate by insisting on careful procedures and proportionate sanctions. Along those lines-- fourth, protection of staff in the workplace. Since the Executive Board's corrective actions against Senator McKeon were issued, Senator McKeon has treated them as binding. Through counsel, he acknowledged the receipt of the Executive Board's letter regarding the special personnel panel's findings and agreed to comply fully with each provision. External training, communication restrictions, relocation of his office, and avoiding physical contact, he specifically apologized for the contact that brought the matter before the Executive Board and he acted accordingly. If any senator were to suggest that voting against the expulsion at this time would leave staff and the Legislature unprotected, I urge you to look at what is already in place and what could be strengthened immediately without expulsion. The Legislature can mandate additional separation, control participation in staff events, and impose written conditions on any conduct without escalating consequences. Those are practical solutions that address workplace safety and decorum and this perception directly. Now, some have suggested that voting against expulsion means choosing senators over staff. Again, this is not true. The choice is not to expel or ignore. The choice is whether expulsion, the most draconian method available or discipline is the correct choice in this matter, and whether it's necessary to protect staff and preserve workplace safety, I submit that it's not. After the special personnel panel's findings, Senator McKeon agreed to and fully complied with

each corrective action. He, he attended external sensitivity training on discrimination, harassment, retaliation. He moved his office, he adhered to a directive prohibiting what he understood to be direct communication with the complainant or about the complainant, cooperation with office relocation, and observance of restrictions on physical contact with any legislative employees or members. If this body believes that additional safeguards are appropriate, Senator McKeon is prepared to fully accept them. We simply request that you make them reasonable, put them in writing, make them enforceable, and apply them consistently. This we submit is what an institution does when it's serious about workplace policy and decorum. In regard to election integrity, I would note that Legislative District 41 is not an abstract concept to Senator McKeon. It is his friends and neighbors in central Nebraska. Senator McKeon has been long involved in his community before the Legislature. He was an Eagle Scout. He was a coach for over a decade. He has served as a ref, he has been teaching at his church-- and I'm trying to think of the right-- but educating youth in his church for over 30 years. He is married father of four, a devoted family man, and in the short time that I've gotten to know him, I have been genuinely impressed by his thoughtfulness and his warmth and his sincerity. Now, he is at times a, a joker. He uses humor in his rhetoric. Humor is protected speech and it is part of the reason why the voters in Wheeler, Boone, Greeley, Valley, Sherman, Howard, and parts of Buffalo and Hall Counties voted for him. They sent him to the Legislature to work on property taxes, schools, roads, agriculture, public safety, veterans' issues, and the day-to-day issues that matter to families in small towns in Nebraska. Senator McKeon is a veteran, 6 years at the National Guard. He is a known commodity to his district. He works in, in ag policy as a consultant. He alone was selected despite having been outspent 3 to 1 in a contested election and he was selected because he is a known commodity to his constituents. His constituents have elected him to show up here and expect him to do his job. Expulsion does not only punish then Senator McKeon, it takes away the voters' rights to their chosen representative. And this is why the constitution's two-thirds safeguard exists. Before you override the will of the electorate, the record should be clear, the process transparent, and the remedy necessary. That standard has not been met. I'd like to take just a moment, if I might, to go over the resolution with you and address the specific clauses. So turning now to the second paragraph on the first page: Whereas, the investigation found that the senator from District 41, Senator Dan McKeon, made an inappropriate sexual remark to a female staff member at a work-related party in violation of the

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Nebraska Legislature's Workplace Harassment Policy, which defines sexual harassment to include sexually oriented jokes, stories, discussions, etcetera. Now, I would note in conversations with Senator McKeon when he was called to testify, he will note that he was merely looking for his ride home, and that because Senator McKeon is somebody who does not try to be dismissive of anyone, including staff, he did not feel it was appropriate simply to ask if they had seen his ride home, but also to make polite inquiry, small talk, if you will. And during the course of that small talk, one of the staffers asked Senator McKeon what his plans were for the summer. He volunteered that he had hoped to go to Rome with his wife, and in response the accuser noted that she and her husband had made plans to go to Vegas. Senator McKeon is not a fan of Vegas and dusting off maybe the only bad pun that he knew, about travel anyway, he said I think you and your spouse should go to Hawaii and enjoy a Hawaiian lay, or words to that effect. The truth is that Senator McKeon doesn't actually know precisely what he said because it was just him, again, trying to be Senator McKeon, trying to give a little witty banter, trying to make people feel comfortable and enjoy his presence. And he greatly regrets that it would be misinterpreted as something sexually charged. He knows he didn't say, I hope you and your husband get laid in Hawaii.

Additionally, to let his accuser know that this was supposed to be a funny joke, Senator McKeon patted her on the back as he walked away. Now I have heard from Senator McKeon that the investigator who met with him said that the accuser described it as a coach's pat. And I have seen a statement by the accuser that describe this as a pat. I don't know who it was who initially described it as a grope or a fondle. I don't believe that the initial citation that was for public indecency was ever appropriate. Public indecency is a charge for people engaging in fornication in public or people exposing themselves in public or for people who are lewdly caressing in public. None of those are applicable to what transpired according to Senator McKeon and according even to the testimony of the accuser as I understand it. And yet, at the same time, I believe Senator McKeon would testify that the State Patrol investigator who interviewed him told him that she had to charge him with something. That was her marching orders, apparently. So Senator McKeon's relationship with his accuser, as far as he knows, could have been no more than six contacts in the start of the year. He remembers one introductory communication he had with her as he learned about her at the very start of the session. Everything else that transpired between them was incidental to him, attempting contact or having contact with the senator for whom she worked. Now something that's interesting and somewhat ironic about the senator for

whom he worked is that Senator McKeon would testify truthfully that last Friday as he was leaving the floor of the Legislature, this senator came up to him. And in an effort to be cordial, perhaps, or to suggest to him that there was no hard feelings, this senator patted him on the back, and in so doing, his fingers crossed over his, his beltline and touched the top of Senator McKeon's buttocks. Senator McKeon has no desire to seek to report a violation of internal policy, but rather this is more of a reflection about I believe human nature. We communicate not only verbally, but we communicate physically. And these are not sexually charged touches, but they happen frequently. They happen unconsciously. And I don't believe that Senator McKeon was conscious when he patted this staffer on the back. And trying to give her the benefit of the doubt, is it possible that Senator McKeon crossed her beltline and touched the upper part of her buttocks over her clothing? Sure, it's possible. And if that would explain her, her unease, then I think perhaps it's possible the truth lies in between. I recall in, in, in defense of the staffer, I recall myself that when I was in fourth grade, another child in my class was dancing, and he bumped my butt with his butt, and I found it horribly repulsive. It really did bother me, and we don't wish to demean the sincere feelings of the accuser in this matter. And, again, this body is not a court and we are not trying to litigate the case. But I would submit to you that it is proper for the individuals in this body to consider what is more objectively reasonable? What is more probable than not? Does it make sense that Senator McKeon, a married family man, Catholic conservative, that at sine die as he's in the process of leaving, and he's outside at a public event, he is so overcome with emotion and desire to touch or caress this woman's backside that he cannot control himself or does Senator McKeon's version of events seem more probable than not, which is that to try and bring levity and, and camaraderie and goodwill and make people like him, he told a joke that he had once heard and, and thought maybe was funny, a joke about travel. And in the process patted somebody on the back as he walked off to find his ride. I would submit to you that that is the far more plausible explanation for what has occurred. Now, since then, you note in paragraph three, the investigation found that the senator from District 41 inappropriately-- I'm sorry, we've covered that, you call it intentionally brushing up against the person. I assume that you are referring to the pat on the back, which is what she told the investigators and what I read in her statement. Following the staff member's complaint of sexual harassment, the District 41 senator violated the directive of the Executive Board and the Legislative Council to have no further contact with the complainant. And this is

the way you allege he did it, by attending staff events on the evening the directive was issued. So I agree that Senator McKeon did attend an event on the evening that the directive was issued. It was an event that he was invited as a senator, so I don't know that it is a, quote, staff event, although I understand the accuser wanted to characterize it as such. My understanding though is that while they were both at the event and in a room this size or larger, he never made contact with her, never approached her, never talked to her, never stared her down, and he has never retaliated against her. And so I don't believe it's fair or accurate to say that Senator McKeon has violated the directive of the Executive Board to have no further contact with the complainant merely because he attended an event, which he was invited. Then: Whereas, on August 7, the senator of District 41 engaged in retaliatory conduct in violation of the harassment policy by texting a colleague and insinuating that the complainant was difficult to work with. Now, again, there is some truth to that matter, but I actually have the text in front of me. And on August 7, Senator McKeon, who at this point felt like he was in a fairly [INAUDIBLE] process, having been accused of things he had not done, was concerned and wanted additional information, and I think that's perfectly reasonable under the circumstances. But was it workplace retaliation to text a man, somebody who had been a wrestling coach that he had known for a decade, who had actually applied for a job with Senator McKeon, and to this man, question, and I quote-- well, and in fairness, I guess it's not a question, but he notes in his text, I have some questions about Bob's AA, seems to be difficult to work with, but I want your thoughts. And that is the, the text to which I believe you refer. I have questions about Bob's AA, seems to be difficult to work with but I want your thoughts. I don't see how that's retaliation. He does not characterize her as difficult to work with. And I don't think it's inappropriate for Senator McKeon to conduct his own research investigation to try and understand the accusations against him. And at the same time, his directive was, as he understood it, not to contact the claimant, the accuser, and he hasn't. He has no desire to. He didn't even need the legislative body to direct him. Now, this one is interesting where Senator McKeon has created the perception of a hostile workplace not suitable for fulfilling the constitutional duties of the Legislature as evidenced from staff and other senators expressing fear of being in the same hallway or having offices near his, thereby disrupting the collaborative environment essential to legislative operations. Well, I don't always know that the Legislature was, was or even is intended to be a collaborative environment. Putting that aside, if there are concerns about Senator McKeon from

staff or from senators working with him, I don't attribute that to Senator McKeon's conduct in this matter so much as the inaccurate information that has been circulated intentionally by some in regard to this matter. Moving to the next paragraph: Senator McKeon has made public statements at various county-level political party events, minimizing his actions, claiming nothing happened, and that it is not a big deal, and attributing scrutiny to others being out to get him, which further demonstrates a lack of accountability and remorse. As I've touched on today, and to be clear, Senator McKeon has deeply apologized for the conduct that led to the staffer's discomfort, both the word and deed, at the same time, he has always preserved his right to give an accurate factual accounting of what actually transpired. It is not an ethical violation of this body, I hope, for somebody to be able to speak the truth in their own defense. And the allegations that he made a sexually charged comment and groped a staffer are factually inaccurate. Senator McKeon has not only a right but an obligation to his voters to set forward his version of the truth as he understands it. Now, as far as others being out to get him I would note that for the first time in my 27 years somebody filed a bar complaint against me, this somebody was a legislative staffer to one of the senators in this body and in it she submitted an email I had written a couple of years ago where I suggested to client that if he wanted to have Nebraska senators listen to him who weren't representative of his district, he should consider making five-figure campaign contributions to them. It was a letter meant as a jest, but I do believe that Senator McKeon has reasonable cause to believe that there are bigger forces at play here than merely his accuser, and that there has been a concerted action by some to make a much bigger deal about what actually transpired at sine die than what actually did. And, again, Senator McKeon is not minimizing his mistakes. He has always accepted ownership and responsibility for them. What he will not do is sit on his hands and not defend himself when there are factual inaccuracies being told about him to his voters, to his family, to members of his district, people who are important to him. So turning now to the next paragraph: Senator McKeon has indicated an intention to continue engaging in behavior that violates the Legislature's established policies, including an official statement he might still occasionally have a bad joke slip out, and those may take offense and that these individuals are eggshells who should avoid him, not engage in the conversation. And, obviously, I think this is, again, Senator McKeon being tongue-in-cheek when he was illustrating an important principle, which is that humor is subjective, and this body I have been here and I have witnessed many senators using humor or rhetoric on the floor of

the Unicameral in part because it is effective. And knowing Senator McKeon, no matter what he says or does, somebody is going to take umbrage with it, being in this politically correct environment that we are now, but this body should be focused more on truth and on protecting speech then on concerns that somebody could consider a joke out of context or be offended, and Senator McKeon reserves the right to use humor in his rhetoric to make points, and it's not inappropriate. It certainly isn't a violation, I believe, of the Legislature's established policies. Next you have: Senator McKeon has engaged in inappropriate conduct during his first week in office, including making jokes involving sexual function of a male in the presence of two female staffers, which although not formalized as a complaint, demonstrated an early pattern violating the Nebraska Legislature's workplace policies on harassment. Senator McKeon has never been provided any information as to who was allegedly offended or what the joke was, although I understand it was clearly a year ago. My understanding from reading perhaps a press article or additional literature was that the chair recalls speaking to Senator McKeon at that time and asking him to watch his jokes because people are easily offended. And I believe that Senator McKeon took that advice to heart, although I would submit to you that when discussing travel plans, a lighthearted comment such as, I hope you and your husband get to go to Hawaii and enjoy a nice Hawaiian lay, is not obscene. It's not sexual. And it wasn't directed at somebody because of their gender. It was just a bad pun, said perhaps in a workplace party setting that was not appropriate. But it was the end of the year party and I'm sure that Senator McKeon made a mistake, which he's recognized, and he let his guard down. Moving on: There are additional confidential complaints pending before the Executive Board alleging that the senator used unprofessional and inappropriate language to describe colleagues as well as individuals of other races in a manner unbecoming a member of the Nebraska Legislature. And how I interpret this particular provision as an attorney right here is we always have people who come forward after the fact and say things we don't necessarily think that they're all even credible. But if you don't resign right now and make it easy for us, rest assured, we're going to try and come out and embarrass you, so you better just resign right now. Fundamental due process requires notice and an opportunity to be heard. It is not appropriate for this body to claim and to suggest to the senators that Senator McKeon be removed based on undisclosed and currently confidential, unverified stories that he told additional inappropriate jokes. And, again, one man's inappropriate joke is another man's good one, because humor is subjective. And the formal investigation,

additional indicate the senator has engaged in a pattern of improper behavior and lack of accountability that is unbecoming a member of the Legislature. Another way of saying that is that Senator McKeon has engaged in a protected activity of free speech and that some people were offended by it. That there has been an accuser, that her statements have not been subject to cross-examination, that they are contested, that the matter is ongoing. And this action, in my opinion, is premature, to put it mildly, if it's going to describe allegations that are confidential and never having been provided to Senator McKeon. And I don't think that Senator McKeon's use of humor and rhetoric is contrary to the senatorial traditions of decorum from actions that are in violation of the Nebraska Legislature's public policies, or at least in the decades that I was acquainted with the Legislature and in the time that I was paid by the state agencies to monitor the Legislature. Rhetoric, puns, dialogue, hurt feelings are par for the course. So, I'm sorry, I've, I've gone on a little long and I am trying to wrap it up and make this quick. But, again, Senator McKeon would note that any contact he had with the accuser was probably a half dozen times that since he was admonished not to address her, he has not. He told a bad pun, and he patted her on the back. That was inappropriate. He has accepted responsibility for it. He has apologized for it. He has met the obligations that were initially imposed upon him, not only no contact but attending a sensitivity training course, moving his office. He has not attacked this woman or her credibility publicly, he has not sought to publicize her name or shame her, and to the contrary, the French have a proverb that "to understand all is to forgive all." And Senator McKeon, as a conservative Catholic Christian, forgives her for what he believes are misstatements or promoting a misunderstanding, but he has always, as he noted in his apology letter, requested that he did make mistakes and that he would like her forgiveness as well. Now, expulsion and the vote will turn on what you senators conclude happened, and it should be concluded with confidence after a fair process. Expulsion should not be the Legislature's way of adjudicating contested facts without the type of public evidentiary hearing that we would demand to ensure fairness in any other setting. At this point, you might ask if we are asking you to vote against expulsion, is there another alternative? And the answer is yes. We are asking to do what institutions do when there are serious separate questions, define your standards and apply proportionate remedies. There is a concrete alternative path, adopt a formal censure motion that acknowledges the policy violation the Executive Board believes occurred, express the body's expectation of professional conduct, and affirm zero tolerance for retaliation,

continue and strengthen no contract-- no contact directives as reasonable, put it in writing with clear boundaries including event attendance rules if you believe they are necessary, provide for enforcement and review, require additional external training and coaching, not as a checklist, but as a structured program with verified completion. You can impose workplace safeguards, physical separation, scheduling measures, and clear reporting protocols that can raise concerns without fear. If the body believes additional allegations exist that are credible, require them to be handled through a fair, transparent process with notice, an opportunity to be heard, and a public evidentiary record before any extraordinary sanction is considered. Those measures protect the staff and workplace decorum. They protect the institution. They do not require you to overturn the will of the voters on contested facts and undisclosed allegations. I will conclude with this. Senators, I realize that this is uncomfortable. We know that we are asking you-- or that they are asking you to take a vote that will potentially be used in campaign mailers and party mailers, social media posts for years to come. But you were not elected to do what's easy, you were elected to what is right, what is reasonable under the facts and circumstances as you know them or believe them to be. What is right here is to protect staff and uphold your policies and to do so with fundamental fairness and proportionality. What is right here, is to set a standard for a burden of proof and fundamental due process. Reserve expulsion for the truly extraordinary cases where the record is clear, uncontestable, and the remedy necessary. I'm asking you to vote no on expulsion. I'm asking you to insist on regular order, a complete and fair process, and proportionate remedies. I'm asking you to remember that your vote does not only decide Senator McKeon's future, it defines this body and sets the precedent for legislatures to come on election integrity. Admittedly, the easiest way in this Chamber is the vote that ends the controversy with expulsion tomorrow. Expulsion promises a quick fix. It feels like certainty, but it is not certainty. It is finality without safeguards that would make the finality legitimate. If you believe Senator McKeon should be expelled for telling a bad pun and patting somebody on the back, then you'll vote to expel him. But if you believe it was only a bad pun and patting somebody on the back, discipline him, do it publicly, but do it proportionately. Do it in a way that protects staff and strengthens the democratic institution. Do it in a way that will set an important precedent for the future on the burden of proof and the rule of law and a fair and transparent process. Do not take this historic first step in Nebraska of expelling a senator on a record that includes a contested narrative, disputed

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intent, and allegations that we have not been given a fair chance to answer. In summation, I ask you all to vote no on the expulsion and yes on a fair process, clear standards, and a workplace where every staff member is respected and protected. Thank you.

**HANSEN:** All right. Thank you. Are there any questions from the committee? Senator Bostar.

**BOSTAR:** Thank you, Chair. Thank you for joining us today, Mr. Pirsch. I had a couple of questions about the text message that you--

**PERRY PIRSCH:** Sure.

**BOSTAR:** --addressed. You had said that the intent of the message was to gather information about the process.

**PERRY PIRSCH:** Yes, I believe from my conversations with the senator that in light of what he understands the facts to be that he simply made a bad pun in passing at a party, patted somebody on the back and walked off, that there has been a great deal of misinformation and that it has been intentional. And, and to speak further on this point, one of my staffers told me that the law firm that filed the NEOC complaint in this matter actually has been boosting the post of a story with incorrect facts covering this matter. Now, this is a law firm that I'm familiar with because when I was deputy and counsel to the State Treasurer I was one of the individuals named in the office in an unlawful retaliation claim that they filed and that we refused settlement. It was taken to trial and it was dismissed.

**BOSTAR:** Thank you. Why wouldn't-- why do you imagine your client wouldn't look for information regarding the process with, for example, the Executive Board, Executive Board Chair? Why go to a staffer who works in a senator's office if the intent was to simply acquire information about the process they were subjected to?

**PERRY PIRSCH:** Well, I don't know that it was necessarily about the process, but I will tell you this is a staffer that had a 10-year association with my client. The staffer was a wrestling coach. My client was a ref, they knew each other and, in fact, the staffer had previously applied for a position in his office when he was first elected in hiring. And I don't think-- was it ill-advised to contact another staffer in her office by an email to request information to try and understand the motivation that this woman had coming forward? Yes, it was ill-advised. Would I have ever advised a client to do it?

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No. But Senator McKeon represents his district. His background is in ag and veterans. It is not in law or personnel issues. And he did not say anything horrible about his accuser. And he didn't try to taint her coworker's opinion of her. He simply said I have some questions about Bob's AA, seems to be difficult to work with, but I want your thoughts.

**BOSTAR:** So-- and you had said earlier specifically that the message doesn't characterize her as difficult to work with, and I-- when it reads, as you just read, seems to be difficult to work with as a segment of that message, how do you imagine that that doesn't characterize her as being difficult to work with?

**PERRY PIRSCH:** Well, for context, I would note Senator McKeon had only talked to her previously at the start of legislative session in sort of a get to know you, get acquainted when he had gone to the senator's office. But any other times that he would have seen her, it was incidental, like passing her in the hallway and maybe a word, maybe six times total to the best of his recollection and belief. From the context of this email, my understanding, I believe that Senator McKeon was told by people who knew her better or had worked with her that she may be difficult to work with. And, again, he's simply trying to understand the motivation of somebody who has gone forward with a complaint about him with an accusation that he believes is patently, materially incorrect.

**BOSTAR:** I want to speak to the timeline of when this message occurs. So it is my understanding, and I'm interested to know if it is also your understanding, that this message was sent right after Senator Hansen, as chair of the Executive Board, informed your client that his apology letter was not received favorably. Is that also your understanding?

**PERRY PIRSCH:** I cannot speak to that, Senator. I, I don't know.

**BOSTAR:** So since it is mine, I think-- it's-- to me, it speaks to an extent to intent and so if one hears that someone has received their letter unfavorably and then transmit something to someone else unrelated to what's going on and considering the fact that your client had just been with the chair of the Executive Board who was available to answer any questions at the time, and it says seems to be difficult to work with, why should we not believe that that is the work of a retaliatory statement in light of receiving news that his letter was not received favorably?

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**PERRY PIRSCHE**: In fairness, Senator, the members of this body are deciding a political question and they are free to decide it however they choose.

**BOSTAR**: That is absolutely true.

**PERRY PIRSCHE**: I will tell you that as an attorney who has litigated Title VII in the Nebraska Fair Employment Practices Act, which is interpreted according to Title VII, retaliation is a term of art. Retaliation is when you materially, substantively change terms and conditions of an employee's job responsibilities in response to their making a complaint.

**BOSTAR**: Isn't it also the case that retaliation can occur if you simply change the way an individual employee's coworkers view them or treat them or interact with them?

**PERRY PIRSCHE**: Well--

**BOSTAR**: Doesn't that-- I mean, based on a lot of precedence with these cases.

**PERRY PIRSCHE**: I think you're, you're making quite a leap from trying to get information to understand why somebody would not accept their apology and whether they are in fact--

**BOSTAR**: Was this the right person to get that information from?

**PERRY PIRSCHE**: Well, again, he had a relationship of 10 years with them.

**BOSTAR**: Thank you very much.

**HANSEN**: Yep, Senator Fredrickson.

**FREDRICKSON**: Thank you, Chair Hansen. Mr. Pirsch, thanks for being here. Are you familiar with the Legislature's policy on keeping the complainant anonymous?

**PERRY PIRSCHE**: No. No is the short answer. Off the top of my head right now, I couldn't specifically cite it to you, chapter and verse, but I can tell you that we have never gone public with the name of the accuser.

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**FREDRICKSON:** So typically during a confidential process, the identity of a complainant is kept anonymous. And your decision to make that person identifiable in your testimony, I think is highly concerning. And I don't believe that that is in the spirit of remorse. I will also--

**PERRY PIRSCH:** I don't think that I did.

**FREDRICKSON:** --that was not, that was not a question. I will ask you-- you mentioned an event that occurred after the alleged incident that Senator McKeon attended, a staff event, a post sine die event. Was Senator McKeon advised not to attend that event?

**PERRY PIRSCH:** To my knowledge, he was, he was not advised not to attend. He was told not to speak to the person. I don't know that he knew she was going to attend or believed she would be there.

**FREDRICKSON:** To clarify he was told not to attend. Did he attend that event?

**PERRY PIRSCH:** If you're testifying he was told not to attend, that's not Senator McKeon's testimony.

**FREDRICKSON:** Understood. Did he attend the event?

**PERRY PIRSCH:** Yes.

**FREDRICKSON:** Thank you.

**HANSEN:** Senator Arch.

**ARCH:** Thank you, Mr. Pirsch. As the LR reads, I think you understand that the, that the findings of the Executive Board is that there is a pattern of behavior, not a, not a single incident, but a pattern of behavior. You have contested the facts of that, but, but that is what the Executive Board has, has seen. What has-- what concerned me in particular after we took that vote, on December 17 there was a release, a press release from Senator McKeon and its, and its titled statement from Senator Dan McKeon regarding Executive Board recommendations. So it was specific to the vote that was taken by this Executive Board. The last two paragraphs of that have a couple of statements I'd like you to comment on. The one was, I will try to watch my future comments, but I might still occasionally have a bad joke slip out, and those who are eggshells should avoid me, not engage me in conversation. By that type of a statement, do you believe that

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those who might file a subsequent complaint in this are simply eggshells?

**PERRY PIRSCHE**: I don't think that you can draw any analysis. I think that Senator McKeon and I regret that that was in the press release.

**ARCH**: Well, it's, it's, it's his press release. I mean, I, I understand, but--

**PERRY PIRSCHE**: But, again, things are taken out of context.

**ARCH**: There's no, there's no out of context. These are the actual words of the press statement.

**PERRY PIRSCHE**: Right, but they're not all the words.

**ARCH**: Let me read you, let me read you the second one, and that is a little bit further down here: Should also contact their state senator to vote to protect Senator McKeon, reject political correctness and cancel culture, and support the will of the District 41 voters. The, the phrase here, to reject political correctness and cancel culture, do you believe that the actions of the Exec Board is the result of political correctness and cancel culture?

**PERRY PIRSCHE**: I believe, absolutely, that this is a political body, and that the actions of the body reflect the political climate and concern of politics, yes.

**ARCH**: Thank you, Mr. Pirsch.

**HANSEN**: Senator Clements.

**CLEMENTS**: Thank you, Mr. Chair. Thank you, Mr. Pirsch. In your testimony, you made a statement: Senator McKeon will do differently in the future. Could you expound on that?

**PERRY PIRSCHE**: Yeah, I would, I would be happy to. I think that there is a balance here, and I think that Senator McKeon has been made painfully aware that he was, shall I say, vulnerable to this action, to these allegations, because he is somebody who has been too cavalier perhaps at times with his humor. And I am absolutely confident that Senator McKeon will be on eggshells, if there were, to watch his behavior and to ensure that he tries at all times to be objectively, sincerely noncontroversial and polite and maintain decorum. At the same time, as I've noted, Senator McKeon, deserves and I think even

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has the obligation to his voters to defend himself from anything that he feels is false or not completely true. And the way that Senator McKeon connects with people, perhaps not everybody in this body, but certainly the voters in District 41 that put him into office, is his use of humor, his nonsophistication. He's not formally educated. His background is in ag. He served his country honorably. And I think in that sense, Senator McKeon is ideally representative of his district.

**CLEMENTS:** OK. One other question. You said that the senator has deeply apologized, but we've only heard that there was one apology that was not accepted. Have there been other apologies?

**PERRY PIRSCH:** There have been multiple public apologies, I believe in the same press release that was recently cited by your colleague, Senator Arch. So, yes, Senator McKeon has been publicly on record, both in a written apology to the young woman, and in other apologies that were made in the course of press releases and statements to other individuals.

**CLEMENTS:** OK. Thank you. Thank you, Mr. Chairman.

**HANSEN:** Are there any further questions from the committee? Senator Ibach.

**IBACH:** Thank you very much. Thank you, Mr. Pirsch. In another news article that was published earlier this-- in November, it, it states the statement from his lawyer says McKeon is considering filing a countersuit for defamation. So under the definition of retaliation, do you think that qualifies?

**PERRY PIRSCH:** No.

**IBACH:** And why?

**PERRY PIRSCH:** Senator, are you suggesting that if somebody makes deliberately false statements in an effort to harm me that I don't have the right to sue for defamation? I'm sorry, I, I realize that, that you are not the one being questioned. I, I apologize for how I phrased that. But, no, I don't believe that if Senator McKeon is having false statements made about him publicly that to do the-- to pursue his rights in court is a form of retaliation.

**IBACH:** Is that the end of your statement?

**PERRY PIRSCH:** Yeah.

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**IBACH:** And you mentioned that you weren't familiar with the policy on retaliation, coercion, etcetera, as Senator Fredrickson alluded to earlier. So are there different definitions of retaliation?

**PERRY PIRSCH:** Of course, Senator. The Legislature would be free to adopt whatever they would like for their policies. As Senator McKeon's attorney at the time, we were speaking about an NEOC filing and about allegations being made at the NEOC that would fall in court under the Nebraska Fair Employment Practices Act. And I think it would be perfectly reasonable and acceptable to respond-- for Senator McKeon to respond with a claim of defamation if he was harmed.

**IBACH:** OK, thank you. Thank you, Chair.

**HANSEN:** Senator Jacobson.

**JACOBSON:** Well, I would, I would just like to follow up. Thank you for the time and thank you, Mr. Pirsch. On the question that was just asked by Senator Ibach, it seems to me that every statement has an intent. If my intent is to defend myself, I would seem-- it would seem to me I would have filed the suit. Not gone to the press and said I'm considering filing the suit. And so it seems to me that the intent, when saying I'm considering filing a suit, is really intended to intimidate. It's intended to shoot across the bow, that you keep this up and this is what I'm going to do. If I just flatly file it, that's a whole different story. One is fact and the other one is intent to intimidate. And I would submit that's how I took the I'm considering filing a countersuit. And I imagine any other staffer here that in the future may want to file some kind of action are thinking about am I going to be prepared to be subject to this countersuit? So I, I just think that it gets back again to some of what I consider in terms of retaliation, and so for what it's worth, I, I look at Senator Ibach's statement as material.

**PERRY PIRSCH:** Could I address that remark, Senator?

**JACOBSON:** You don't need to. Thank you.

**HANSEN:** I have a couple of questions--

**PERRY PIRSCH:** Yes, sir.

**HANSEN:** --pertaining to things I think that are important to me as an Executive Board Chair, and the idea that you brought about fundamental due process, and you feel like this maybe didn't have the fundamental

due process that it should have had. I think that's important to me, I think to make sure that not only do both parties have the ability to say what they need to say, present what they need to present, and us to respond to it as well, which I think formally is due process when it comes to Legislature. So do you feel like what we have accomplished here so far would be categorized as due process, or do you still feel like due process has not been met from a legislative standpoint or according to our policy?

**PERRY PIRSCH:** Respectfully, Senator, this is a political process. I don't feel that there is substantive due process, although I don't believe that it's constitutionally required. The constitution sets forward that it takes two-thirds of the body to expel him. I believe that it is a political question probably not subject to review by the courts. You could do it for any reason or no reason at all. Do I believe that this was a fully fair and transparent process? No. No, I do not.

**HANSEN:** OK. I kind of also want to, maybe, reiterate that you mentioned earlier that jokes are protected speech. But I think according to our policy when it comes to maybe inappropriately saying certain things including jokes that would violate our legislative policy. So even though I, I would recognize that you said they are protected speech, I think that they are a violation of our legislative policy. And I am going to share your concern that we are setting precedence. Now, granted, the Executive Board is making precedence based on our vote. The ultimate precedence is going to be what happens on the floor with 33 senators. And so I think we do have to be careful and take this matter very seriously, which is what I've always done. I think everybody in this Executive panel has done as well. And so I think a singular event is very difficult to warrant something-- someone being expelled from the Nebraska Legislature, which something I think you mentioned in your opening statement. However, I would contest that we're not dealing with just one singular event. We're dealing with and what was mentioned in the LR, and I'm going to refer to the LR specifically that the Executive Board put forward, that is a pattern of behavior. And now those are some things that you contested, some that Speaker Arch mentioned earlier. And so the pattern of behavior I think is what we as an Executive Board has-- have made our decision on when it comes to LR. And then I'm assuming then our unanimous vote to expel Senator McKeon. I just want to reiterate that a little bit, that we're seeing not just one event, which I would not disagree that is contested, what happened at a party. But it has to do with what happened before that, during that, and then afterwards. I

think to expel a senator for a singular event has to be pretty atrocious. And I don't think that's what we're dealing with here. And I think that something that you and I might disagree on. So I want to reiterate that, not just for you, but for everyone else as well, that we're not seeing one thing, but I think we're seeing a pattern over the course of time. And that's something I think the body will have to decide on. I'm not going to sit here and give my opinion on how the body should vote. I think it's up to them, and I think is up to Senator McKeon and yourself being here to state their case. And that is the due process part that I want to make sure that is upheld. And so that's where I wanted to make sure I get your opinion on that as well. Are there any other questions from the committee for Mr. Pirsch? All right, seeing none, thank you for being here. Appreciate it.

**PERRY PIRSCH:** Thank you for your time.

**HANSEN:** All right. And for our second testifier, Ms. Paulson, would you like to come up, please?

**TARA PAULSON:** Good morning.

**HANSEN:** Welcome back.

**TARA PAULSON:** Tara Paulson, T-a-r-a, Paulson, P-a-u-l-s-o-n. Good morning, Chair Hansen and members of the Executive Board. Thank you for the invitation and opportunity to appear before you today. As you are aware, I was retained by the special personnel panel appointed by the chair of the Executive Board on September 12, 2025 to conduct a workplace investigation specific to a complaint initially lodged on June 2 of 2025. As I understand, on June 2, a complaint was lodged under the Legislature's Workplace Harassment Policy. Between that date and September 12, the chair of the Executive Board, Senator Hansen, followed the investigative procedures contained in the Legislature's Workplace Harassment Policy and attempted to resolve the complaint through the articulated informal resolution process. Those informal resolution efforts were not successful, and the complainant subsequently expressed her desire to pursue a formal investigation pursuant to the policy. Chair Hansen promptly appointed a special personnel panel consisting of three members of the Legislature, and the special personnel panel retained me as the investigator on September 12. Pursuant to the Legislature's Workplace Harassment Policy, I followed the steps for a formal investigation. Those steps included, one, taking proper care to protect the identity of the complainant and the accused party. Two, holding the allegations in

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confidence pending corrective action. Three, advising all witnesses of the need to maintain strict confidentiality regarding the complaint and the investigation. Four, consulting with the special personnel panel and legal counsel for the Executive Board concerning the progress of the investigation. Five, preparing a written report stating the findings of the investigation and recommendations regarding corrective action to be taken against the accused party, if any. And six, submitting that written report to the special personnel panel. I submitted my report to the special personnel panel on October 27. I interviewed five individuals, including complainant and the accused party, Senator McKeon. Both complainant and Senator McKeon had retained legal counsel. Complainant's attorney permitted me to interview complainant outside the attorney's presence. Senator McKeon's counsel was present during my interview with him. The evidence established that Senator McKeon made a comment containing sexual innuendo to complainant, an employee of the Legislature at a sine die party at the Country Club of Lincoln on May 29, 2025, and that Senator McKeon made unwelcome physical contact with complainant. After complainant initiated a complaint pursuant to the Legislature's Workplace Harassment Policy on June 2, Chair Hansen confronted Senator McKeon that same day about the allegations. During that meeting, Senator McKeon admitted to making a joke, did not admit to touching complainant, and agreed not to attend social gatherings at which legislative staff would be present. However, during my investigation, Senator McKeon admitted he made physical contact with complainant. Specifically, Senator McKeon told me he made a comment containing sexual innuendo to complainant, after which he patted complainant on her back and that it could have been her low back or buttocks. Moreover, despite this June 2 discussion and agreement with Chair Hansen regarding attendance at social gatherings, Senator McKeon proceeded to attend a second sine die party that very same day, at which complainant was also present, and went to bars after that event where complainant was also present. The evidence also revealed Senator McKeon wrote complainant a letter on July 28 about his actions and later sent a text message on August 7 to another employee of the Legislature indicating complainant, quote, seems to be difficult to work with. Senator McKeon admitted in his interview that his reference to complainant being, quote, difficult to work with was in response to the learning complainant intended to continue with the investigation. I performed an objective legal analysis for a claim of sexual harassment and retaliation based on the evidence uncovered in my investigation. There are two sources of authority I considered. One, applicable law, and, two, the Legislature's Workplace Harassment

Policy. Federal and state law prohibit discrimination in the workplace on the basis of sex. A form of sex discrimination is hostile work environment sexual harassment, which requires an individual to be subjected to unwelcome harassment that affects a term, condition or privilege of employment. In determining whether conduct affects an individual's term, condition or privilege of employment, courts look to the totality of the circumstances, including the frequency of the discriminatory conduct, its severity, whether it is physically threatening or humiliating or a mere offensive utterance, and whether it unreasonably interferes with an employee's work performance. I did not find Senator McKeon's conduct on May 29, 2025 rose to the level of actionable hostile workplace sexual harassment under federal-- applicable federal and state law. Federal and state law also prohibit retaliation against individuals who engaged in protected activity and have a materially adverse employment action taken against them because of that protected conduct. Complainant clearly engaged in protected activity by initiating a good-faith complaint of sexual harassment. Moreover, by his own admission, complainant's decision to pursue the investigation process is what motivated Senator McKeon to send a text message describing the complainant as seeming to be difficult to work with. However, as of the day I finalized and submitted my report to the special personnel panel, October 27, there was no evidence uncovered in my investigation that complainant had suffered any materially adverse employment action. Thus, I did not find Senator McKeon's conduct rose to the level of actionable retaliation under applicable federal and state law. As described in my report, actionable is not tantamount to acceptable. Pursuant to the Legislature's Workplace Harassment Policy, quote, all women and men are to be treated fairly and equally with dignity and respect without regard to race, color, religion, age, gender, disability, national origin, or sexual orientation. Any form of workplace harassment as defined herein shall be treated as a violation of this policy and of other applicable policies, rules, and regulations of the Legislature. The policy also states that complainants, quote, shall not be subjected to retaliation, coercion, intimidation, or threat of reprisal. Any such retaliation, coercion, intimidation, or threat of reprisal shall be considered a violation of this policy. The policy specifies it, it extends to job-related events away from the job site and at times other than normal or assigned working hours. It further obligates members of the Legislature and supervisors to take appropriate action to correct or prevent workplace harassment, and states it's a violation for any member of the Legislature to knowingly permit workplace harassment of any employee of the Legislature. The

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policy defines sexual harassment to include sexually oriented jokes, stories or discussions, and also defines sexual harrassment to include intentionally brushing up against a person. The evidence in my investigation found by Senator McKeon's own admissions that he made a sexually oriented joke and engaged in unwelcome physical contact with complainant. In light of the Legislature's Workplace Harassment Policy, I determined Senator McKeon's conduct and comments should not be tolerated because they may contribute to or foster a hostile work environment. I then recommended remedial actions to be considered to address Senator McKeon's conduct including: (a) supervised external training on discrimination, harassment and retaliation; (b) a requirement that Senator McKeon should have no communication with or about complainant; (c) that consideration be given to moving Senator McKeon's office; (d) a requirement that Senator McKeon not engage in physical contact with employees or members of the Legislature; and (e) a directive to Senator McKeon that continued behavior or a pattern of such behavior, such as that uncovered by my investigation, could lead to reprimand, censure, or expulsion. I'd like to thank the Board for the opportunity to summarize my investigation this morning. Chair Hansen and members of the Executive Board, this concludes my formal statement and I'd entertain any questions that you may have.

**HANSEN:** Thank you. Are there any questions from the committee? Senator Ballard.

**BALLARD:** Thank you, Chair. Thank you for being here, Ms. Paulson. Workplace harassment is your area of practice, correct?

**TARA PAULSON:** Yes, it is.

**BALLARD:** So you've done a lot of investigation into workplace harassment cases. I believe the Legislature has retained you in the past. Can you-- in your investigation process and your observing the situation, do you believe Senator McKeon is taking this process seriously? Is he understanding the gravity of the situation, because we heard from a previous testimony that Senator McKeon is willing to change, but we're also looking at the pattern of behavior as, as senator said before. So just kind of get your opinion, your sense on the senator, the senator taking this process seriously.

**TARA PAULSON:** Sure. I'd first probably have to orient us to the scope of my investigation, which did conclude on October 27. I did have the opportunity to interview Senator McKeon. His attorney was present. And as I indicated in my report, it was puzzling to me that Senator McKeon

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made a lot of jokes in our interview session. And I understand that that could be someone's unease or nervousness in that process, but I did find it troubling that I couldn't discern whether he was just uneasy with the process or if he wanted to continue engaging in joking banter.

**BALLARD:** OK. Thank you. I appreciate it.

**HANSEN:** Senator Dorn.

**DORN:** Oh, thank you. Thank you. The previous testifier, Senator-- or Mr. Pirsch, testified quite often about, I call it, sexual harassment or harassment on the state level, on the national level, or whatever. I think, though, part of your investigation and what we as a legislative body, we have our own workplace harassment policy, which those two don't exactly line up all together. Could you expound on that a little bit?

**TARA PAULSON:** Sure. What I looked at in my investigation, Senator, in addition to just looking at applicable laws, I looked that your Legislature's Workplace Harassment Policy, which specifies definitions for sexual harassment under the policy. And it goes on to say, any of those examples lead to a violation of the workplace harassment policy.

**DORN:** I guess the question is, and, and if it would someday go on to a bigger trial or whatever, how, I guess, in a court of law, will our workplace harassment policy, will it stand up?

**TARA PAULSON:** I think the question, it somewhat should be centered around the totality of the circumstances. That is a standard that federal and state law apply when we are looking at a sexual harassment hostile work environment claim. And here I do think that it is up to the Executive Board to determine whether the totality of the circumstances, which as I understand it, include actions that extended beyond the date of my report led to a decision that, yes, it not only violates a policy, but that it also warrants additional remedial action and here, here today considering expulsion.

**DORN:** Thank you very much, and thank you for being here.

**TARA PAULSON:** Thank you.

**HANSEN:** Senator Jacobson. Senator Jacobson-- Senator Fredrickson.

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**FREDRICKSON:** Thank you, Chair Hansen. Thank you, Ms. Paulson, for, for being here and for taking the time to brief the committee. I think it's worth noting for the record that it appears Senator McKeon and his attorney have, have left for this portion of the, of the hearing. Going back to some of the conversation from the previous testifier, in your professional opinion, would identifying or making a, a complainant in the situation identifiable, would you consider that retaliatory?

**TARA PAULSON:** I would say it's outside the scope of what I was asked to do in this particular investigation, Senator. I would point you to your policy that specifies that proper care does need to be taken to protect the identity of the complainant and accused and witnesses as well.

**FREDRICKSON:** OK, I appreciate that. My other question for you is, I know that you mentioned on page three of your testimony here towards the bottom, you said a directive to Senator McKeon that if should continued behavior or a pattern of such behavior, such that and covered by my investigation could lead to reprimand, censure, or expulsion. Obviously, an expulsion would be a very serious step taken by, by this body. This has, this has never happened before. I mean, of course, we've had situations in the past where senators in these circumstances have, have chosen to resign in the interest of the institution, but we're not seeming to see that here. My question for you is what, what, what should-- given the, the, the, the seriousness of an expulsion, and given your recommendation that a further pattern could lead to that, could you elaborate more on that, what, what might warrant an expulsion from a legislative body versus other, other measures?

**TARA PAULSON:** Sure. Wanted to probably again is a little outside the scope of what I was asked to do since my retention ended on October 27. It's my understanding that additional comments or behavior was engaged in that may lead you as the Exec Board to determine that the totality of those circumstances suggests that expulsion is necessary. I think you could look at continued comments, behavior. Whether you ask yourselves, whether you feel like Senator McKeon has taken this process seriously and will abide by any additional directives or measures that you've asked him to engage upon, I think those are all things that you could consider as you are looking at the totality of the circumstances here.

**FREDRICKSON:** Thank you.

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**HANSEN:** Senator Jacobson.

**JACOBSON:** Thank you, Mr. Chair. And, Ms. Paulson, thank you for being here. There's-- as I understand our process, we are here because we're dealing with a workplace harassment policy violation and what's occurred along the way. This is not a legal proceeding. My understanding is there-- there is a legal process, a path going on as well. But in your experience with corporations and others that are dealing with workplace harassment policy violations, do you see that it's incumbent upon us to wait for a separate legal process to play itself out or should we follow our policies and make our own independent decisions based upon what's before us and allow the legal process to work on its own?

**TARA PAULSON:** Thank you, Senator. My response to that would be, one, I think every situation of a potential violation of a workplace harassment policy or claim of sexual harassment or hostile work environment, every situation is unique. Each employer is, is unique. Here I would say it is incumbent upon an employer generally to take steps to make sure that any sexual harassment doesn't continue to exist. And if I was advising a client, employer who had a lawsuit pending, and again I've not seen any lawsuit or charge of discrimination, that would be outside of what I did in this scope, but you need to make the decisions you think are appropriate irrespective of whether there's a charge or lawsuit out there. You have to make whatever decision you as an employer believe is appropriate to make sure that you are preventing hostile work environment sexual harassment to continue or to, to exist here.

**JACOBSON:** Thank you.

**HANSEN:** Speaker Arch.

**ARCH:** Thank you. Thank you, Ms. Paulson. I, I-- one of the, one of the statements that was made, and I don't believe I'm misquoting Mr. Pirsch when he said it, but he said humor is protective speech. Could you comment on that? What is protected speech? What is-- I mean, we say that there are certain kinds of jokes that are a violation of this policy. He made the claim that that's protected speech. I'm not asking you to comment on what his thinking is, but what's your understanding of protected speech?

**TARA PAULSON:** Sure, Senator, there is protected speech and depending on the setting where that speech takes place, that can give rise to

protection for that speech. In this scenario, under the evidence, a comment made at a workplace party would not be protected speech, at least as I understood Mr. Pirsch using that language. If instead it was a statement by a senator on the floor during debate, that would probably-- that would be a different analysis as to whether that type of speech on the floor doing your duties as a senator, whether that would be protected as different than what happened here.

**ARCH:** Thank you.

**HANSEN:** Senator Bostar.

**BOSTAR:** Thank you, Chair. Thank you, Ms. Paulson, for being here. There was a, a brief dialogue we had with the previous testifier related to retaliation specifically with regard to the transmission of a text message and I just want to clarify what can create or, or trigger retaliation and because I'm not sure it really, we got to the bottom of it in that last discussion. So when it comes to retaliation, if an individual with more status or, or, or seniority or level within an organization communicates to an employee's coworkers something negative about that employee, could that lead to or represent retaliation?

**TARA PAULSON:** Could it lead to retaliation? I think the answer is yes. Courts look at all sorts of things, Senator, when they're evaluating whether the behavior materially adversely impacted an individual. Things that a court would look at would be things like a demotion or a cut in pay, maybe a changing of office hours that the complainant doesn't find as acceptable. But it could be as small as that complainant feeling like the complainant is being given the cold shoulder, that some courts even go so far as to say that that is a materially adverse action that could warrant a finding of retaliation. Does that help clarify the issue?

**BOSTAR:** It does. Thank you.

**TARA PAULSON:** OK.

**HANSEN:** I have a couple of questions, since you seem like you're becoming the expert on the Legislature's workplace policy. And just because I do appreciate your opinion from a legal standpoint, I'm going to go back to due process because, again, that's important to me. I think as chair of the Executive Board is to make sure that there is adequate due process in this whole, not just the hearing, but

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throughout the whole, the whole process of somebody getting accused and the, and the accuser, right? And so in your opinion, I know what the ultimate due process is, what's going to happen on the floor with 33 votes or 49 votes. I think that's ultimately the due process that's deserved. But throughout this whole process, do you think that has been accomplished? Do you think, like, not with just the investigation that you conducted, the interviews that you did, the material that's presented, everything that happened afterwards, including this hearing, do you feel that due process has been accomplished?

**TARA PAULSON:** Probably can only truly speak, Chair, to the, the matter that I dealt with, which was my investigation piece. I would tell you I followed the same procedures as I always follow when I do outside objective investigations, make sure that individuals' identities are protected, that I ask about the accusations that have been made against the individual, I make sure they have a copy of the policy if there is one, and then I ask questions and give the individual an opportunity to share their side of the story. Sometimes that includes individuals bringing documents with them, and so I review those, present those if they make-- if it's, if it's something that's relevant to the investigation. And, certainly, if, if someone feels a need to have an attorney present in my interview, I always allow that as well. So at least for, for that purpose, I would say that I engaged in the same process that I do with all investigations. What happened outside the scope of that or what has transpired after October 27, I don't know that I have crystallized knowledge to be able to weigh in one way or the other as to what transpired after October 27.

**HANSEN:** OK. Good. Thank you. And one thing I just want to reiterate is, in the spirit of due process, is to make sure that Senator McKeon was provided all relevant documents and information at least a week before this hearing. So I want to make that, that is just known for the Board and also publicly that. I feel I want to make sure--

**TARA PAULSON:** Sorry, I didn't mean to interrupt, but in my investigation I presented to him the text message, so that would have been something he's had for a couple of months.

**HANSEN:** Yes. All right. Thank you. Senator Bostar.

**BOSTAR:** Thank you, Chair. Thank you again. During your interview with Senator McKeon, and you mentioned his lawyer was present, and you mentioned that Senator McKeon, you described his behavior as puzzling, and that he seemed to be making light of the situation for one reason

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or another. Did, at any point during that interview, did his attorney give him instructions on his behavior or indicate to him that he should try to take this process more seriously?

**TARA PAULSON:** Senator, at one point in time, I was asked to leave our conference room, and I probably can't weigh in on what the-- his attorney spoke to him about, but I would say throughout the entirety of my time with him, he did continue to engage in a jovial or joking manner.

**BOSTAR:** Thank you.

**HANSEN:** Senator Clements.

**CLEMENTS:** Thank you, Mr. Chairman. Thank you, Ms. Paulson. Regarding the Legislature's harassment policy, is it more strict than what other employers use in employment? Does it seem to be a, a tighter standard than others use, or how would you compare it?

**TARA PAULSON:** I've, I've seen all sorts of workplace harassment policies, Senator, some that are almost nonexistent and some, like the Legislature has, that has a number of examples of what the Legislature has determined to be inappropriate conduct. So here I would say your policy is more robust than some of the other workplace policies I have seen. But I don't know that I could say it's the most robust of any, but it, it does have a number of examples of behavior that the policy says constitutes sexual harassment. And that's not always found in every workplace harassment policy.

**CLEMENTS:** Thank you.

**HANSEN:** Any further questions from the committee? Seeing none, thank you very much. All right, well, that will conclude the hearing for LR282.