

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 3, 2023

BREWER: All right, let's get started.

LOWE: Famous last words.

BREWER: Good afternoon and welcome to the Government, Military and Veterans Affairs Committee. I'm Senator Tom Brewer, representing the 43rd Legislative District, and I serve as the Chair of this committee. The committee will take up bills in the order that they're posted on the agenda. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on proposed legislation before us. Committee members may come and go during the hearing. This is just part of the process. They have bills to present in other committees. Ask you abide by the following procedures to facilitate today's meeting. Please silence your phones or electronic devices. Please move to the reserved chairs in the front row to testify when the time comes for the bill you're going to testify on. Introducing senator will make the initial remarks, followed by proponents, opponents, and those in the neutral. Closing remarks are reserved for the introducing senator. If you're planning to testify today, please pick up a green sheet at the back table. Fill it out completely and legibly. Turn the green sheet in when you come forward to testify. If you are here and you just wish to record your presence, there is a white sheet in the back which you can also do that with. If you have any handouts, we'll need ten copies. If you don't have ten copies, we can make copies for you. Just get with the pages. When you come testify, please speak clearly into the microphone. Tell us your name and then please spell your name, both first and last. We will be using the timing system today. I think we'll call it five minutes. No displays of support/opposition for bills will otherwise be allowed. This is-- let's see, committee members here with us today, I will start on my right with Senator Raybould.

RAYBOULD: Good afternoon. Happy Friday. I'm Jane Raybould, Legislative District 28, which is the center of Lincoln.

SANDERS: Good afternoon. I'm Rita Sanders, representing District 45, the Bellevue-Offutt community.

LOWE: Oh. John Lowe, District 37.

BREWER: The world is watching on TV.

HALLORAN: Welcome, Sheriff. Welcome, Sheriff. Steve Halloran, District 33, Adams, Phelps, and Kearney Counties.

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HUNT: Hi. I'm Megan Hunt. I represent District 8 in the northern part of midtown Omaha.

BREWER: All right. And Dick Clark is our legal counsel. Senator Sanders is the Vice Chair. Julie Condon is our committee clerk. Our pages today are Logan and Audrey. Today is Senator Hunt day. We're going to start with LB8-- LB485, Senator Hunt.

HUNT: Thank you, Chairman Brewer and members of the Government committee. I am Megan Hunt, M-e-g-a-n H-u-n-t, and today I am presenting two bills about accountability and integrity for our state officials. Both of the measures I am presenting today pertain to constitutional officers and are very much related in origin. So in the opening for this bill, I will talk about the background and circumstances that spurred these two bills and I'll keep my comments on the next bill more brief. For people who-- in the public who might not know what we talk about when we say constitutional officers, the Nebraska constitution establishes six state leadership positions as the executive officers in the state of Nebraska. Those include the Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, as well as a few constitutional boards and commissions. The need for this bill came to my attention in 2019, when a constituent reached out to my office regarding ads he was seeing from the State Treasurer's Office that looks like campaign advertisements. Shortly after, the conversation around this really exploded in the press. Many people reached out to me about it in that week after the news article came out from the Omaha World-Herald which shed light on some questionable decisions by the Treasurer in his first year in office, and I passed that out for all of you. The Treasurer's Office has a legitimate reason to use advertising, and that's to inform people about the services they manage, such as the state's college savings plans or unclaimed property. The ad in question was ostensibly about their Unclaimed Property Division, but a lot of people I talked to agreed that this ad, which prominently featured Treasurer Murante and his family, looked a lot more like a campaign ad than a public service announcement. Through the World-Herald report, we learned that the Treasurer had spent nearly \$600,000 of taxpayer money on these ads; not only that, but the company which Murante hired to produce and place the ads, Victory Enterprises, was one that he used to work for, and it's also the same organization that did his campaign ads when he was running. There was no competitive bidding process followed in the selection of this company. In this bill, LB485, we're dealing with the competitive bidding problem. And in the next bill, I'll address the use of state funds for these ads. Victory Enterprises is not a company

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that typically works on public service announcements. It's a political consulting firm, one which Murante previously worked for, and some documents found by Common Cause actually had him listed as a director in the past. And it's also the same company that he hired to handle his own campaign ads for his 2018 election that had just recently put him in office, and presumably he could hire them to work on future campaigns. I think all of us can see the potential ethics problems with that. LB485 would prevent these types of dealings from state officers in the future by requiring that constitutional officers follow the same competitive bidding requirements that state agencies already have to follow. Existing statute requires agencies to go through a public competitive bidding process to contract for any state services that would cost more than \$50,000. That law doesn't apply to constitutional officers or the executive branch agencies they lead. In the case of the Murante ads, the Treasurer budgeted some \$600,000 of state funds for what was an alleged public service campaign for unclaimed property awareness, but he didn't seek any bids for that. Without LB485, the door continues to be wide open for these officials to give huge taxpayer-funded handouts to their friends, their former employers, or their future campaign consultants without any legal repercussions. I think we can all see that-- that this is an issue of fairness and government transparency and the way we're lea-- leaving the door open for the abuse of our system. The last time this bill was heard, in 2020, there was no opposition and no neutral testimony, so I'm hoping that will be the case again today. It didn't get a priority last time, but it remains a good governance issue. I'll also note that the last time these bills were heard, Treasurer Murante said he, quote, would be happy to comply with whatever rules the Legislature imposes on constitutional officers. Now I'll explain AM269 to you. AM269 was filed on the bill well before this hearing in good faith after my staff spoke with the director of the Board of Educational Lands and Funds about a need for them to be exempted from the requirements of the bill. I found their concerns were totally legitimate. The Board of Educational Lands and Funds is a constitutional agency which serves as trustee of the lands contributed to the state in 1867 by the Federal Government, which is 1.3 million acres leased to farmers and ranchers. As trustee of these lands, it is found by fiduciary duty to its beneficiaries, the K-12 schoolchildren of Nebraska. They work to maximize income of properties through stewardship of the land. Basically, they serve as the owner and manager of this land, collecting rent on 2,300 leases related to agriculture and renewable energy. I wasn't familiar at all with this board previously, so I appreciate that Director Sudbeck took the time to provide this information. The board has five members appointed by

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the Governor and it has its own section of the Constitution. After speaking with the board, we concluded that without this amendment, our bill would be in conflict with that constitutional provision, Article VII-6, as well as the statutes pertaining to them in Chapter 72 of our statutes. In practice, most things that this board deals with has to do with emergencies like washouts on crop land and well problems and things like that. Under this bill, they would have to go to DAS to get approval to handle emergencies, which would be a barrier to their duty to exponentially [SIC] manage these things. To my understanding, no other agency has a fiduciary duty in this way, so it's a unique state entity and they have an obligation to manage the property independently. I have one more comment. I also see we have a little fiscal note for this one. DAS said that they would need another staff person to handle increased workload of handling the contracting processes. I don't know if I agree with that, but I think that that's reasonable if that's what they think it is. The other piece of it is from the Public Service Commission, who estimates the need for another staff person to handle this as well. And they, the Public Service Commission, also had some concerns about how this would affect their ability to fulfill their responsibilities for the unique services they provide, like the 911 network and natural gas system and telecommunications utilities, so that makes sense to me, too, and I also have an amendment, which I just passed out to all of you because we just got it back, that would exempt the Public Service Commission from the requirements of this bill as well. So I appreciate you considering this bill, as well as the amendments to exempt the Public Service Commission and the Board of Educational Lands and Funds. Thank you, colleagues.

BREWER: OK. Thank you for that opening. Back to the fiscal note, they got the General Funds at 100 and-- \$131,279, and then below that, in other funds, I've got the \$103,046. Each one of them represents a-- a new hire that would manage the additional requirements with the law? Is that kind of how it's supposed to--

HUNT: I think that they're anticipating the extra workload because of reviewing the contracts, but, I mean, there might also just not be that many contracts. Don't really know if it's going to be that much work.

BREWER: Well, the-- the-- the total, \$231,325 [SIC--\$234,325] seems like a lot, but maybe--

HUNT: I agree with you.

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BREWER: --I need to figure exactly how they figure that.

HALLORAN: I'll go [INAUDIBLE].

BREWER: OK. All right. Let's take questions. Questions for Senator Hunt on LB8-- LB485? Yes, Senator Raybould.

RAYBOULD: Senator Hunt, so these are big contracts that are under the auspices of just the-- the Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, Attorney General.

HUNT: Just the constitutional officers, yeah.

RAYBOULD: So how many contracts are they involved in? I-- I don't know.

HUNT: We don't know. Yeah.

RAYBOULD: And then could you finish what happened to our State Treasurer Murante?

HUNT: Well, I'd encourage you to read the article. Nothing happened to him, I mean--

RAYBOULD: Nothing happened.

HUNT: --because-- because nothing illegal happened. But I think that there are probably-- while not illegal, like it's probably an ethical problem to be able to hand really, really lucrative contracts to your friends as a constitutional officer. And whether that's what happened or not, it certainly has the appearance of that, and I think even the appearance of this ethical breach erodes trust in government and I think we should pass this law to kind of patch up that-- that problem.

RAYBOULD: And they didn't close the Omaha office?

HUNT: I'm not-- I don't know right now. I don't know.

RAYBOULD: OK.

HUNT: Might be in the article.

RAYBOULD: OK. Thank you.

BREWER: OK. Yes, Senator Conrad.

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CONRAD: Thank you so much, Chairman Brewer. Thank you, Senator Hunt, for bringing the-- these measures forward again. I remember some of the-- the public news articles about some of these issues and some of the public debate. But I know that, for example, Speaker Arch has been pretty clear that he wants to focus a lot of his time in his personal legislative agenda and in his role as Speaker in kind of addressing procurement issues in the state kind of writ large, because seeing that there's a lack of legislative oversight and a lack of uniformity in terms of how we utilize taxpayer-funded dollars for contracts or services, etcetera, so I'm wondering if maybe the time is right to revisit this discussion as perhaps part of that broader umbrella that Speaker Arch is leading. I don't know if you want to respond to that or not.

HUNT: No, I agree with you. I think that this probably could have been done for a lot less money than \$600,000, but maybe it wouldn't have been a company owned by one of Murante's friends. And so, yeah, I think-- I think this is one of those perfect examples of a place where money could be saved.

CONRAD: OK. Thank you.

HUNT: Thank you.

BREWER: Do you know, if you go through the normal bidding process, is there a required number of bids to move forward with like purchasing or contracting a particular activity?

HUNT: I'm not sure. I don't-- I don't think so. I would think that the important thing is just that people could bid.

BREWER: All right.

HUNT: You know?

BREWER: So it's competitive?

HUNT: Yeah.

BREWER: OK. Other questions? All right.

HUNT: Thank you.

BREWER: Seeing none, well, we'll see how quickly-- OK.

HALLORAN: Don't go far.

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BREWER: Are there any proponents to LB685? Any opponents? Anybody here in the neutral? All right. We're gonna waive.

RAYBOULD: OK.

BREWER: We'll-- we'll-- we'll reset while I read letters because we need to do that. OK. LB485, zero proponents, one opponent, zero neutral. And we will reset for LB846.

SANDERS: LB486.

BREWER: LB468-- LB486, sorry. It's--

HUNT: Thank you, Chairman Brewer.

BREWER: --been a long week.

HUNT: Thank you, Chairman Brewer. We're not supposed to do this, but one other comment on the previous bill I just introduced that I meant to say and forgot is that by exempting the Public Service Commission, by passing the amendment that I passed out to you, it would greatly reduce the fiscal note, so that's one thing to think about.

BREWER: OK.

HALLORAN: That's your close on [INAUDIBLE]

HUNT: [LAUGH] Yes. So on LB486-- hello again. I'm Megan Hunt, M-e-g-a-n H-u-n-t, and now I'm presenting the second in this related pair of bills, LB486. So with the report about the Treasurer's Office's decisions that raised red flags in 2019, two separate statutory oversight issues emerged. One, which would be addressed in the last bill, has to do with requiring constitutional offices to follow a competitive bidding process for state services that exceed \$50,000, which is the same as for other agencies. That was LB485. The other part that we addressed in this bill, LB486, is to say that no state constitutional officer should be allowed to use state funds for campaigning or self-promotion at any time. I remember hearing from a lot of people when those advertisements aired that they really felt like campaign ads, so, you know, of course it's reasonable that the Treasurer would need to appropriate money to advertise the services of the Treasurer, the State Treasurer. I think that there's a need to differentiate between a public service announcement and a campaign ad. With LB486, we make a change to the existing statute that prohibits these types of ads for constitutional officers during election years to prohibit these kinds of ads at any time. The Legislature passed the

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original ban on spending on this during election years in 2002 because of what they perceived as an increase in incumbents on spending in their offices and on ads, particularly during campaign years. These ads might feature the officeholder and their name in a way that makes them indistinguishable from campaign ads. They could have their campaign logo. It could have their family, like it really feels exactly the same as a campaign ad. Senators back then thought that the increase in these types of ads warranted a ban on them during election years, but only if the ad referred to the officeholder by name, since the self-promotional aspect is what gave incumbents an unfair advantage. LB486 simply extends that ban to every year, effectively making state officeholders unable to use state funds for this purpose. I'll point out that this would not prevent any officeholder from running any ads or distributing any promotional materials completely. It would just limit the medium and the source of funding for this purpose. If it has the officeholder's own name on it, they can't use taxpayer funds to do that. Other offices would also still be able to conduct outreach programs they run and advertise the services that they offer. They would just need to use the same limits that are currently in place during election years. When this bill was last heard in 2020, it was introduced by Senator Matt Hansen. There were no proponents and no neutral testifiers, and it was just not a priority, so it wasn't really pushed. But once again, I think this is an issue of responsible government and accountability to our constituents. Both bills say that constitutional officers shouldn't get a free pass to do favors for their friends or their own campaigns while they're in office, and I think that's a bipartisan sentiment that the majority of this committee and most Nebraskans can share. Thank you.

BREWER: All right. Thank you. All right. Questions on LB486? All right. Well, you did a good job of describing it. Now let's see.

HUNT: Do you have a question? OK.

BREWER: Well, I-- I'm just-- you went through the description. So say you're the, I don't know, Auditor, one of the positions, so you could have advertising that said, hey, you know-- in the Treasurer's case-- case-- I'm trying to remember now-- it didn't have about unclaimed money, I think, was one of the themes.

HUNT: Unclaimed property, yeah.

BREWER: So I would say Treasurer, would not be specific with a name, could have whatever state logo with it. You just leave the name off,

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but your ability to use the office to still get a particular message out--

HUNT: Correct.

BREWER: --you can do.

HUNT: It would be like to, you know, the Public Auditor, you could say, like on TV, like here's a service of your Nebraska Public Auditor, please reach our office here if you have questions or need services, instead of like, you know, Mike Foley is the Auditor, like that's not the important information. It's just what the office can actually do for you.

BREWER: Right, and then you have the-- the website and--

HUNT: Um-hum.

BREWER: OK. All right. I'm with you. Thank you. OK. Again, the question is, you'll stick around for close?

HUNT: Yeah.

BREWER: Good.

HUNT: Thank you.

BREWER: OK. We're gonna go to proponents to LB486. Any opponents to LB486? Anybody here in neutral for LB486? All right, we'll welcome you back for a close on LB486.

HUNT: I'll waive.

CONRAD: All right.

BREWER: All right. But I still have to read in letters. We had a proponent, no opponents, and no one in the neutral on LB486, and that will close our hearing on LB486 and a well-earned early day. Thank you all for your patience this week.