

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board March 28, 2024
Rough Draft

AGUILAR: Good afternoon, and welcome to the Executive Board. My name is Senator Ray Aguilar. I represent the 35th Legislative District, and I have the pleasure of serving as Chair of the Executive Board. We will 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.

BALLARD: Beau Ballard, District 21.

BOSTAR: Eliot Bostar, District 29.

SLAMA: Julie Slama, District 1.

LOWE: John Lowe, District 37.

TREVOR FITZGERALD: Trevor Fitzgerald, committee legal counsel.

ARCH: John Arch, District 14.

RIEPE: Merv Riepe, District 12.

VARGAS: Tony Vargas, District 7.

JACOBSON: Mike Jacobson, District 42.

AGUILAR: Also assisting the committee is our committee clerk, Sally Schultz. And our pages today, Isabel Kolb from Omaha, who is a political science major at UNL, and Ella Schmidt from Lincoln, who's a criminal justice major at UNL. This afternoon, we'll be holding a hearing on LR335. And because this matter concerns the internal workings of the Legislature, we will only be taking invited testifiers. For those in attendance at the hearing, if you would like to record your position on the resolution, please fill out the yellow sheet near the entrance. Earlier this week, my office invited those members of the Legislature who were involved in the incident that took place on Monday, March 18, to testify if they chose to do so. Three of those four individuals, Senator John Cavanaugh, Senator George Dungan and Senator Steve Halloran, declined to testify today. The committee has received a written statement from Senator Halloran, and that statement will be included in the record as an exhibit. I would note the Legislature's-- policy for all letters for the record must be received via the online comments portal by the committee by 8 a.m. the day of the hearing. Any handouts submitted to-- by the invited

testifiers will also be included as part of the record as exhibits. We should ask, if you have any handouts, that you would bring-- please bring 12 copies and give them to the page. If you need additional copies, the page can help you make more. We ask that you begin your testimony by-- testimony by giving us your first and last name. Please also spell them for the record. I would remind everyone, including senators, please turn off your cell phones or put them on vibrate. I would also remind members of the audience that no displays of support or opposition, vocal or otherwise, are allowed during the hearing. The Legislature also does not allow signs or props. Violation of these rules will result in your removal from the hearing room. With that, we begin today's testimony, today's hearing on LR35 [SIC]. Welcome, Senator Cavanaugh.

M. CAVANAUGH: Thank you, Chairman Aguilar and members of the Executive Board. My name is Machaela Cavanaugh, M-a-c-h-a-e-l-a C-a-v-a-n-a-u-g-h. I appreciate you taking time to consider resolution LR335 to address a matter that strikes at the core of our values and principles. I am here before you to present an opening statement in support of the-- my own motion to censure Senator Steve Halloran. The question here is whether you as a committee are willing to allow the entire Legislature to have a public conversation about the comments made by Senator Halloran and to vote to make our collective deep disapproval of Senator Halloran's comments publicly known, but does not warrant an expulsion. There has been a great deal of conversation about a censure motion and what it means for the institution, and if it violates free and protected speech. A censure vote does not remove a member from their committee assignments and does not limit their ability to speak. It is simply an opportunity for the body to use our speech to say that though it is protected collectively, we do not find Senator Halloran's comments acceptable or becoming of the Nebraska Legislature. A censure vote is not merely a procedural formality, but a profound expression of our collective conscience. It is a reflection of our shared commitment to uphold the integrity and dignity of this body. The events that transpired last Monday evening demand forceful condemnation of Senator Halloran's actions, which were profoundly offensive and fundamentally disrespectful to this institution and its members, with a censure vote. The invocation of a senator's name in a context describing sexual assault is a stain on the decorum and decency that we strive to uphold within these hallowed halls. Such behavior has no place in our deliberative process and must meet with our disapproval. As representatives entrusted with a solemn duty to serve our constituents and uphold the values of our democracy, we

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cannot disregard such egregious misconduct. By censuring Senator Halloran, we reaffirm our commitment to accountability and ensure that our legislative body remains a bastion of respect and integrity. In presenting this motion, we stand in solidarity with survivors of sexual violence and send a clear message that the voices of survivors will not be silenced, nor their trauma disregarded. Let us proceed with resolve and determination, guided by the principles of justice and decency, as we consider the motion to censure Senator Steve Halloran. That is the end of my official statement. I also am going to share with the committee some other written statements. As I was not allowed to invite anyone for my own resolution, I am going to share with you what I had hoped would be shared by others. "My name is John J. Cavanaugh," and for the record, this is my father, not my brother. "I am a lifelong Nebraska resident and a fourth-generation Nebraskan. A descendant of Irish immigrants, I have been married to my wife, Kathleen, for 55 years. And together, we are the proud children-- the proud parents of 8 children and 16 grandchildren. We have lived at the same home in Omaha for the past 44 years. Two of our children, Machaela and John, are currently serving as elected members of the Nebraska Legislature, representing Districts 6 and 9 in Omaha. I served in the Nebraska Legislature representing District 9 from 1972 to 1976, when I was elected to U.S. Congress to represent the people of the Second Congressional District. I was reelected in 1978 and served until 1980, when we returned to Omaha. I resumed law practice as a member of the Nebraska Bar Association for more than 50 years. I appear before you today," although he does not, "to support the resolution introduced by Senator Machaela Cavanaugh, calling for the center of Senator Steve Halloran of District 33. I commend the Chairman of this committee, Senator Aguilar, for his prompt action in appointing a select committee to investigate the workplace sexual harassment, which he witnessed being committed by Senator Steve Halloran on the floor of the Legislature on the evening of Monday, March 18th, 2024, and for scheduling this committee hearing on this resolution of censure of Senator Steve Halloran. While I did not witness the initial floor debate and despicable comments of Steve Halloran directed at Senator Machaela Cavanaugh and Senator John Cavanaugh, as you all did, I have since been deluged with reports of Senator Halloran's remarks. And together with my wife Kate, been contacted by people from our community and every corner of this country and state from New York, Chicago, Florida to Arizona, Colorado, Montana and California with expressions of outrage and disgust. Our family has been traumatized by this unjustified and obscene assault on our children and this Legislature. This was also an

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assault on each of you. After a lifetime in public service and public life, our family feels abused by Senator Halloran, as has the broader public, and I'm sure, each of you. It would help if you look no further than the news coverage of this event to understand its devastating impact on public decency. The comments of Steve Haml-- Halloran are so offensive they cannot be reported in print. They are characterized as referencing a sex act demanded to be performed. And in broadcast news, they are bleeped out of Senator Halloran's mouth. But they are now part of this Legislature's permanent transcribed repor-- record. They will be available for future generations, including my grandchildren, and the children of Machaela and John. Steve Halloran was so callous, so careless and reckless in his claimed effort to protect children from his version of pornography, that he became the first person in the history to make pornography a permanent part of the legislative record for every child in the state to read and listen to, and every parent to explain. As Steve Halloran acknowledged, children watched the legislative debate broadcast, having served as a legislator and participated in vigorous and hard hitting debates and occasional personal attacks. I have the highest regard for the importance of the speech and debate clause, and the protection it provides for free and whole debate of public policy and legislative proposals. Still, Senator Halloran's remarks went far beyond what has ever occurred. Never have we heard somebody declare the statement--" and I'm not going to read it again. "Every person elected to represent their fellow citizens in this legislative body has an obligation not only to represent people in their district faithfully, but also to those who came before and those who will come after them. Not only were Steve Halloran's remarks not representative of the views of the people of District 33, they were a decre-- desecration of everyone who has served before, an abuse of everyone currently serving and a pollution of everyone to come after you. There is an obligation on each of you to leave this Legislature better than you found it. I have seen it reported that Senator Halloran defends his accusations and conduct by asserting his remarks were directed at Senator John Cavanaugh and not Senator Machaela Cavanaugh, apparently believing sexually assaulting a male member is acceptable, even if assaulting a female legislator is not. That is not a standard this committee or the Legislature can accept. Senator Halloran has presented each of you and this entire Legislature with a highly unpleasant, but not a difficult choice. You can condemn Senator Halloran's conduct on the floor of the Legislature or you can condone his conduct. You can ignore his conduct and move on to other business. If you choose to condone it, you will have permanently altered what is

acceptable in debate in this legislative chamber, and accelerated a steepening decline in the level of discourse and debate in Nebraska and across our country. What you do here will not remain here. The entire country is looking to see what Nebraska will do to maintain or to degrade its standard of decency, decorum and human dignity in debate. The explanation is very simple for why no one has ever sunk to this level" although I would contend that that's not true. Sidebar from my father's testimony, I do want to acknowledge that this has happened to another member of this committee, Senator Slama. When Senator Chambers did sink to this level and we failed to act, I failed to act. I failed Senator Slama and I will be forever sorry. All of that-- sorry. "If the Legislature decides to change that status and to proclaim that it is now acceptable in the Nebraska Legislature for one legislator to say to another legislator what he said, each of you will forever be responsible for the whirlwind that will follow. I urge you to advance this resolution to the entire Legislature and to advocate for its adoption. The fact that we didn't take action, the fact that I didn't take action when Senator Chambers verbally assaulted Senator Slama, is a blight on this Legislature. We should have. Again, it is something that I deeply regret and I have to live with, and there is no apology in the world that can change that. But hopefully we can move forward for future members of the Legislature, future Nebraskans, and we can say this has got to stop. If we don't move this forward, at least to allow the whole Legislature to debate and discuss and decide for itself, we are in fact condoning this type of speech. It is not censorship. A censure is a statement. A censure is a statement that we disagree with Senator Halloran, whether he was acting-- asking for me to perform a sex act or my brother is irrelevant. It should never have happened and it has traumatized the public. And as my father's testimony states, it has traumatized my family. My oldest and my brother's oldest children are in fourth grade. They came here this year. We stood and applauded our own children. Fourth grade is when you learn about Nebraska and you learn about the Legislature. Just imagine if they had been there that day. My 10-year-old should not be subjected to hearing her mother be asked to perform a sex act. I am disappointed in this process and frustrated. And again, I can only imagine how Senator Slama feels, as we have failed her in the past. I ask you to not sit on this, to not take the weekend. To end this hearing and to exec on it immediately. To at least give me some semblance of closure and my family, some semblance of closure to know whether or not you will advance it. You have drug this out. It has caused a great deal of harm, as you can see, as you all have witnessed in the floor debate this week. The longer this takes, the more harm

you are causing, not only to me, but to other victims of sexual violence. So I ask you to act. Don't sit on this, Chairman Aguilar. Take action. If you are not going to advance it, I deserve to know that and the people deserve to know that. And we shouldn't have to wait until Tuesday to find out. I would like to go home to my children and color Easter eggs tomorrow and have the Easter Bunny come and go to church and fly kites and enjoy my family. And I would like to know what this body has decided. I deserve that. My brother deserves that, my family deserves that. Victims across the state and the country deserve that. So with that, I will take any questions.

AGUILAR: Are there any questions for Senator Cavanaugh? Senator Slama.

SLAMA: Thank you, Senator Cavanaugh, for being here today. And before I get into my questions, I owe you an apology. You're right, you should not be here today. You should not have had this dragged out for a week and a half. And I am so sorry to you that I did not fight harder in 2020. And the same people that are trying to silence you now are the ones that pressured me into standing aside and letting it go. So thank you from the bottom of my heart for being willing to take this on, because you had-- have so much courage in the face of this that I did not have. So thank you for that. And I'm so sorry we didn't do right by you four years ago.

M. CAVANAUGH: [INAUDIBLE]

SLAMA: Because you're right, this shouldn't-- this shouldn't have happened.

M. CAVANAUGH: You did have the courage. You did. You just didn't have the support.

SLAMA: That's, that's fair. Would you be willing to describe how these comments have impacted you personally?

M. CAVANAUGH: Yes. I have-- honestly, I've witnessed how they've impacted the men in my life: my husband, my father, my brother who's sitting here and my four other brothers and my brothers in law have all been so angry and frustrated because they want to protect me, which is kind. And I think most people know I don't really need protection, but that instinct is there and it is hurting them, and it hurts me to see how it hurts them. It has been exhausting. I have not slept well. I have not been as present for my children as I would like to be. I stayed here last night because I was concerned about bringing

my anxiety and toxic energy home to my children last night, and I just want this to be over.

SLAMA: No, I think that's absolutely understandable. And I think if we take nothing else out of this, the fact that we need a clearly defined policy and procedure, because thank God you're willing to fight this fight and stick through it. A staffer who goes through the exact same thing is going to be pressured to stay silent. And they don't have the microphone you do. So thank you for going through this. It's going to improve lives. It might save lives. So thank you. Could you walk me through your interactions with Senator Halloran and lead up to those comments being made and any interactions that have followed? Because I think those are something that have not been widely reported but are absolutely key to establishing a pattern? Yes. So on Monday evening, last Monday evening with-- prior to us taking a dinner break while we were debating LB441, I was standing in the back of the Chamber talking with Senator Walz, and Senator Halloran came up to us and started to tell us about the transcript. And I said, yes, I've read the transcript. And then he started to recount the portion of the transcript that he then read on the floor later, inserting my name. And when he started to recount the transcript to me, I said something to the effect of, OK, Steve, I'm going to walk away now. And I walked away. And then we went on a dinner break and we came back from the dinner break, and then he got in the queue and read the passage and said Senator Cavanaugh three times. And then that was-- I was, I was in complete shock, because I probably should have made a point of order. I don't even recall who was presiding at that time. But in reading over our rules, I realize that whoever was presiding also could have and should have made a point of order, which I think is something that we broad-- more broadly need to discuss as a Legislature to understand the role of the person who is presiding and that they can demand decorum. And then I was yielded time to speak because I wasn't-- I was out of times to speak. After my brother and Senator Dungan both also spoke to address some of Senator Halloran's comments. And while I was speaking, Senator Halloran had walked around the Chamber over to near my desk and stood there, sort of smirk-laughing at me while I was speaking. And I was visibly shaking. And then yesterday, he-- during the debate on Senator Murman's bill, he walked around loudly telling our colleagues that, of course, Senator Cavanaugh knows about Pornhub. She watches porn or something to that effect. I, I was not privy to the actual conversation. I know that he admitted to Speaker Arch that he did, in fact, say those

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things about me to colleagues on the floor of the Legislature. That is the only engagement I have had with him.

SLAMA: And I know it's been a long week. But by yesterday, do you mean during debate the day before yesterday? And we had the chance to yesterday kind of assess where that was-- it was.

M. CAVANAUGH: Oh, sorry.

SLAMA: No. You're fine.

M. CAVANAUGH: Yeah.

SLAMA: You're fine. I just want to make sure that if anybody's going to call this out and double-back, that we have an accurate record so.

M. CAVANAUGH: Yes. Thank you. It was during the debate of LB441. I-- it's all a mess.

SLAMA: LB1092.

M. CAVANAUGH: LB1092.

SLAMA: Murman's bill.

M. CAVANAUGH: Ah, it was during the debate of LB1092.

SLAMA: No, you're fine. You're fine.

M. CAVANAUGH: Yes. Thank you. I just-- yeah. Yes.

SLAMA: No, thank you very much, Senator Cavanaugh. I appreciate you.

AGUILAR: Further questions from the committee? Senator Riepe.

RIEPE: Thank you, Chairman. And thank you, Senator Machaela Cavanaugh, for the strength that you've have and are now exhibiting. This is strong. You are strong and I appreciate that in particular, I know the whole committee does. What I seek is I seek a point of clarification. And that was at one time Senator Halloran had stated that he did not invoke-- he invoked the name Cavanaugh, but he did not invoke the name of the Macava-- Machaela Cavanaugh. I was sitting there. I heard that. I'm just looking for the record to confirm that. Is that what you heard as well, specifically your name?

M. CAVANAUGH: No, I heard Senator Cavanaugh repeated.

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RIEPE: You didn't hear Machaela Cavanaugh?

M. CAVANAUGH: No, he did not say Machaela.

RIEPE: Oh, OK.

M. CAVANAUGH: He started his remarks out by saying Senators Cavanaugh, so he was-- and Senator Dungan. He was engaging all three of us in the conversation at the start.

RIEPE: OK.

M. CAVANAUGH: And then he just dropped it to a singular Senator Cavanaugh.

RIEPE: OK. OK, well, thanks for the clarification, because I was convinced that he had specifically pointed out your name. And I know in some of his conversations, he said he was looking at Senator John.

M. CAVANAUGH: Yes. Right.

RIEPE: And I don't know that visual approach means anything in this, this particular hearing. But again, thank you for being here. Thank you, Mr. Chairman.

AGUILAR: Thank you, Senator Riepe. Senator Vargas.

VARGAS: Thank you very much, Chairman. And thank you, Senator Cavanaugh, for how-- being willing to even have this conversation in public and seeking out accountability and seeking out decorum. You know, as I've read the resolution several times, I'm reading it again. You know, the question I have is you started off part of your statement talking about you're not seeking expulsion and clarifying that, that your intent is not to interfere with freedom of speech. And I wondered if you can talk about that more in the nuance on why a censure, given the terms in the senatorial traditions of decorum. And I just wondered if you could elaborate on that more.

M. CAVANAUGH: Sure. So a censure comes with nothing, really, other than a values statement. It really is a values statement, what are our values in the Nebraska Legislature. And it doesn't, it doesn't limit anyone's ability to speak. In fact, it is speech, because it's debate. A censure motion is a debatable motion that we then can have free speech to discuss it, and to make a decision as to what statement we want to make to the broader public and to ourselves and to the future

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of the Legislature. It-- that is, that is what it is. It isn't any sort of penalties imposed, no committee assignments removed, no duties stripped, no time removed from speaking. All of-- all of the duties of a senator remain in place with a censure motion. It is simply at its core, the Legislature saying, we find this unacceptable. It is protected speech. The protected speech still has consequences.

VARGAS: Thank you for elaborating on that. And I, and I wanted to make sure that was more clear because you started off your testimony really talking about you're not seeking expulsion.

M. CAVANAUGH: No.

VARGAS: Whereas some, you know, we get emails or get calls about this. I'm getting more individuals saying they want accountability. And I think the words matter here. And I just wanted to get a little bit of more of your intent about accountability, whereas some might call this something else and it's not. And so I wanted to make sure the clear-- the clarity is there on censure.

M. CAVANAUGH: Thank you.

VARGAS: Thank you.

ARCH: Thank you Senator Vargas. Further questions from the committee? Senator Cavanaugh, I just want to thank you for your courage and your composure today under some very difficult circumstances. I'm proud of you.

M. CAVANAUGH: Thank you, Senator Aguilar.

AGUILAR: Would you like an opportunity to close?

M. CAVANAUGH: I just thank you for the time and for the questions and for listening. And I would, I would really appreciate quick action to be taken so that we can all collectively move forward. So that's it.

AGUILAR: Thank you. Yes, John? Senator.

LOWE: No. Thank you. John's good enough. It's going to be that way soon anyway. I would also like to have Senator Halloran's transcript read into the-- notes read into the transcript besides not only to record, just for future.

TREVOR FITZGERALD: Senator, written testimony is-- the only written testimony that is included in the physical transcript is written testimony that is received through the-- through our Americans with Disabilities Act written accommodation testimony system. But Senator Halloran's statement, because it was received by the committee, will be included as an exhibit that will be part of the record and copies can be available from, from Senator Halloran.

LOWE: So it won't be in the transcript?

TREVOR FITZGERALD: Correct. No written testimony is in the transcript except for ADA testimony.

AGUILAR: Anyone else? This concludes the hearing on LR335. We received a total of 521 online comments: 269 proponents, 251 opponents, 1 neutral. We also received 1 ADA written testimony submission in support. But since this hearing has been designated as invited testimony only, the ADA testimony will be treated as if it were an online comment. I want to thank the members of the Executive Board, invited testifiers, committee staff, pages and members of the public who joined us today. The past two weeks have been very difficult for our institution, and the eyes of all Nebraskans are focused on the Nebraska Legislature. The potential censure of a member of the Legislature is a very serious matter, and the fact that the last time such an event occurred was in 1955, highlights that it is not an action that is taken lightly. We will not be holding an executive session today, and I would ask the members of the board to take some time over the weekend to consider the seriousness of this issue. I wish you all a restful and enjoyable Easter weekend.