

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 21, 2020

BREWER: Welcome to the Government Committee. My name is Tom Brewer. I am the Chairman of this committee. I represent the 43rd Legislative District of western Nebraska. We will start today with introduction of committee members, starting on my right with Senator Blood.

BLOOD: Good afternoon. My name is Senator Carol Blood and I represent District 3, which is western Bellevue and southeastern Papillion, Nebraska.

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

La GRONE: Andrew La Grone, District 49, Gretna and northwest Sarpy County.

M. HANSEN: Matt Hansen, District 26, northeast Lincoln.

KOLOWSKI: Rick Kolowski, District 31, southwest Omaha.

HUNT: I'm Megan Hunt and I represent midtown Omaha.

BREWER: And I got a note here that says Senator Hilgers is in a meeting but will be here ASAP. Senator La Grone is the Vice Chair, Dick Clark is legal counsel, Julie Condon is our committee clerk, and Michaela is our page. Thank you. Today we are going to have public hearings on LB981, LB982, and LB1195. I got a few administrative things we need to run through here. Please make sure your electrical-- electronic devices are muted. Just as a reminder that the senators will be on their computers or phones, either doing research or getting updates on other committee hearings that they need to go to. Let's see-- Senator La Grone and Senator Hunt both have hearings. Anyone else? So if they get up and leave, don't take it personal. They're just doing what they got to do. If you want to record your attendance, white sheets are back on the table. If you're going to testify, we're going to need you to fill out a green testifier sheet. Let's see-- if you got materials to pass out, be sure to have 12 copies. If you don't have them, pages can make copies for you. Letters that are submitted for the record need to be in by 5:00 p.m. the day prior to the public hearing. Those should include your name, address, the bill number, and your position. Mass mailings-- we do not accept mass mailings. When it's time to testify, we're going to ask those who are testifying on the bill to move to the front of the room. The senator that is testifying will complete their opening and then we'll have a period for proponents, opponents, and those in the neutral. Because of the

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number here today, we'll go with the five-minute light system. That said, Senator Hunt, welcome to your committee on Government, Military and Veteran Affairs and you are opening on LB981.

HUNT: That's right. Thank you, Chairman Brewer, members of the Government, Military and Veteran Affairs Committee. My name is Senator Megan Hunt, M-e-g-a-n H-u-n-t, and I'm here today to present LB981. This bill amends Section 73-502 to require officers established by the Constitution of Nebraska to follow the same competitive bidding requirements that are currently applied to state agencies, as described in Section 73-503 to 73-510. The need for this bill came to my attention last October when a constituent reached out to my office regarding ads he was seeing on television from the State Treasurer's Office. After that, the conversation around this really exploded. Many people reached out to me about it that week that this news article came out that I've distributed from the Omaha World-Herald on December 21, 2019, titled "State treasurer opened new Omaha office in September, but hasn't alerted the public." At that time, many people, including many of our colleagues, discussed this with me and we saw the need for legislation. While the commercial I mentioned had to do with unclaimed property, the advertisement featured the Treasurer prominently and looked more like a campaign advertisement than it did a public service announcement. Advertising has always been part of the Treasurer's Office and that's fine to inform people about the state's college plan or unclaimed property. But the Treasurer's Office, in my opinion and the opinion of many others, has taken this too far. The World-Herald article wrote on December 21 last year-- made clear that the company hired for the advertisements wasn't a typical public service announcement producer. In fact, the firm hired as a political service company that the Treasurer himself used to work for; \$593,200 of taxpayer money was spent on television ads with the firm the Treasurer not only used to work for, but also employed to handle his own Treasurer-- the Treasurer's own campaign ads for his 2018 election. Spending has increased immensely on pace to exceed \$900,000 during the current fiscal year and that's five times what the previous State Treasurer spent. Section 73-501 through 510 requires public bids for the contract for state services in excess of \$50,000. However, the law doesn't apply to state constitutional officers. Right now, the Treasurer has \$628,000 budgeted for, quote, public service campaign for unclaimed property that he didn't-- that he didn't receive any competitive bidding for. The overarching concern this raises is that because they are constitutional officers, certain public officials can give huge government handouts to their friends, their former

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employers, or their future campaign consultants. It allows these officers to use public funds to bolster a future political campaign without any accountability from taxpayers or from the law. LB981 is about ensuring accountability and transparency. I brought this bill because I think there should be a competitive and transparent bidding process when large sums of taxpayer money is being spent. The process is called the Fourth Estate for a reason and I thank local journalists and the Omaha World-Herald and the Lincoln Journal Star especially for bringing this issue to light. Please advance LB981 to General File. Thank you.

BREWER: All right. Thank you for your opening. Questions for Senator Hunt? All right. And you'll stick around for closing?

HUNT: I am going to waive closing.

BREWER: OK, you are waiving closing.

HUNT: Thank you.

BREWER: Thank you.

HUNT: I'm going to get to another hearing that I have to go to so--

BREWER: That's right. I forgot. You do have another one. My bad.

HUNT: Thank you.

BREWER: OK. We will start with proponents for LB981. Come on up. Seems like deja vu after yesterday.

JACK GOULD: You guys don't look at all tired either.

BREWER: No, not at all. Welcome to the Government Committee.

JACK GOULD: My name is Jack Gould. That's J-a-c-k G-o-u-l-d. I'm here representing Common Cause Nebraska. And I would like to just say this. Most of my testimony deals with both bills that are going to be brought up. And in lieu of the fact that our-- that Senator Hunt is going to be needing to leave, I am going to withhold some of that. I just want to say that, one, we appreciate Senator Hunt bringing the bill. Her statement about the need for oversight and for monitoring of-- of the constitutional officers is something that we support. I have to say that I have to be a little cautious about my testimony. I have filed a complaint in regard to some of what I'm saying and

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therefore, under law, I'm only allowed to make comments about what is public. So when you start asking me any questions, I will have to-- if you ask me questions, I will have to be careful as to how I answer them. So with that, I am in support of the bill. I will withhold the rest of my testimony and address Senator Hansen's bill. Are there any questions?

BREWER: All right. With the-- with the understanding that you just shared with us, questions for Jack? Questions? OK. We'll see you back in a little bit, then. All right, next proponent. All right, we'll switch to opponents. OK, how about those in the neutral capacity? And-- and we're waiving closing. Thank you for giving me that wave on the way out there [LAUGHTER]. All right. So with the-- the waive of the closing, that will close our-- as soon as I confirm letters. No letters. So that will close our hearing on LB981. And we'll swap out some numbers here for LB982. Senator Hansen, welcome to your Committee on Government, Military and Veterans Affairs.

M. HANSEN: Thank you. Thank you and good afternoon, Chairman Brewer and fellow members of the Government, Military and Veterans Affairs Committee. For the record, my name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent District 26 in northeast Lincoln. I'm here today to introduce LB982, which would extend an existing prohibition on state officeholders from using state funds on advertising or promotional materials that refer to themselves by name. Currently, the Governor, Lieutenant Governor, Secretary of State, State Treasurer, Attorney General, and State Auditor cannot run ads or-- or distribute promotional materials that refer to themselves by name in gubernatorial election years. That includes radio, television, and print media that could be considered promotional in nature. The Legislature passed this original ban 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. Senators 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. LB982 simply extends this ban to every year, effectively making state officeholders unable to use state funds for this purpose. I'll point out this would not prevent officeholders in their office from running ads or distributing promotional materials completely. Instead, it would limit the medium and source of the funding for this

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purpose only if the material has the officeholder's own name in it. Other offices would still be to conduct outreach programs they run and services they offer. They would just need to use the same limits that are currently in place during gubernatorial years-- a gubernatorial-- sorry, election years. With that, I'll end my opening and be happy to take any questions.

BREWER: All right. Thank you for your opening. Questions on LB982? Well, all right. Well, thanks for your opening, and--

M. HANSEN: Thank you.

BREWER: --you'll stick around for close?

M. HANSEN: Of course.

BREWER: All right. We'll start with proponents to LB982. Good. I thought that was your cue, but-- all right. Welcome back to the Government Committee.

JACK GOULD: Senator Brewer, members of the committee, my name is Jack Gould. That's J-a-c-k G-o-u-l-d and I'm here representing Common Cause Nebraska. There are really three issues that I think I feel comfortable talking about and ones that I think are relevant to both bills. In the first case, we're talking about Treasurer Murante's involvement in opening offices in Omaha. As far as we know, there was really no oversight of that process. We know that the Treasurer signed a ten-year contract. We know that the contract was for \$58,700. What's interesting is the fact that the Treasurer, I believe, is term-limited. And with term limits, he would be limited the last two years in really using the offices. So that's a bit of a-- a prob-- a problem with the lease. The office itself is-- is a bit questionable in the fact that it's not in the downtown area. It's on the outskirts of Omaha. There was no signage available. It opened in September. And the office is occupied at that point, but there were no signs except for a sign on the door to the office itself. And it's-- it's really a suite of offices. There are-- it was an office for the Treasurer and an officer [SIC] for a Deputy Treasurer Larson. There was an office for a staff person and there was a meeting room so when I say a suite of offices, that's what I'm referring to. Fifty-seven thousand is a lot of money and, and to sign a lease for that long is something that I think the public and the Legislature really should have some oversight with. The Treasurer also contracted with Victory Enterprises. And as was mentioned earlier, Victory Enterprises is a--

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an entity that has been dealing with the Treasurer for a number of years, at least five years. On his statements of financial interest, the Treasurer has identified Victory Enterprises as a source of income over \$1,000. Now as you know, you don't have to report how much over \$1,000. It may be a little, it may be a lot, but it's reported as late as his statement of financial interest on-- in 2019, which would cover 2018. So there's a period of time there that will not really be visible until March 1 of this year. At that point, his latest statement of financial interest will be due and it should reflect whether he has any contact. A problem with that is the fact that we don't have anything else documented that would refer to his termination of relationship with Victory Enterprises and as I said, a five-year commitment to that organization as, at one point, a state director. And most of that time, he's listed as an independent contractor. So I think that, again, is something that needed to be more visible, and at least, the minimum would have been to contact Accountability and Disclosure, making them aware of the change if it did take place. And I think there should have been, perhaps, you know, a public statement about what the relationship was. Finally, Treasurer Murante also had contacts so that when you talk about \$600,0000 being spent on a contract for TV ads, it-- it's exorbitant. And I think the senator already brought that forward. But the ads themselves were somewhat questionable. I know we had complaints within Common Cause and there were some, I think, in the paper regarding the fact that the ads were not directly involved with disclosing lost property. Many of them were involved with showing family, which really, I hope had nothing to do with lost property [LAUGHTER], but that-- there seemed to be no relationship to the family and to the actual reason for the ads. And there's been ads before on these issues. Most Treasurers have put ads in the paper and the public gets a chance. They're much less expensive. They're there for public to inform them of what's available. But the TV ads, although I would say would get-- got a lot of coverage, whether that was necessary and whether it was worth the amount of money is something that government should have an opinion on. And with that, I see the red light. I will stop.

BREWER: All right. Thank you, Jack. Quick question for you, and again, you may not have seen this handout. Here it talks about United Republic Bank, United Republic Mortgage, and below that it's got Collaborative Planning Group. And you talked about Victory Enterprises, is that what it was?

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JACK GOULD: Yes.

BREWER: Are they part of what's in this complex and that's why that picture is on there?

JACK GOULD: To my knowledge, you know, I-- that, I believe, is the image of a bank. It's a bank on the outskirts--

BREWER: Yeah, it is.

JACK GOULD: --of town. It's-- it's-- the offices are on the second floor of that bank. And there's nothing in the parking lot or on the building or anywhere else that really notice-- notifies anyone that the offices are there. It went for four months until Omaha World-Herald ran the article identifying where, where the office was.

BREWER: OK. Thank you. All right, questions? Questions? Oh, yes. Go ahead, Senator Kolowski.

KOLOWSKI: Yeah, jump in. Thank you, Mr. Speaker. There was a lot of consternation when this ad-- these ads hit the TV. And I think it was very disturbing to see the amount of "I, I, me, me" that was portrayed in those ads. And I think it violated everything that we would stand for or we're trying to get done here. Then to contract two years beyond your terms, the possibility of the terms, where were the checks and ba-- checks and balances on this? Where do you go to knock on a door and say, here's the check I need, and that we're going to do this and this and this?

JACK GOULD: It doesn't appear to--

KOLOWSKI: [INAUDIBLE]

JACK GOULD: --be any. That's a problem. I think constitutional office-- officers have a great deal of freedom with the money that they want to spend. And that's not consistent through government, which is part of the problem. I think why both senators are concerned, there needs to be some consistency between constitutional officers, legislative people. You know, it's-- it's something that would be-- should be uniform, really, throughout government.

KOLOWSKI: Thank you, Jack, appreciate it.

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BREWER: So would the Financial Disclosure Office have oversight on spending by the Treasurer?

JACK GOULD: I'll be honest, I'm not sure. I think that would be a better question for the senator.

BREWER: OK. I-- just, you know, maybe that will be something that you-- you knew. All right. Any additional questions? All right. Again, thank you for your testimony, Jack.

JACK GOULD: Thank you.

BREWER: All right. Any additional-- let's see, we're on proponents? We'll switch to opponents. Anybody here in the neutral capacity? Senator Hansen, come on back.

M. HANSEN: Thank you. Thank you, Chairman Brewer and members of the committee. I'm just going to close and clarify. I think some of Mr. Gould's comments were probably better addressed to Senator Hunt's bill in terms of kind of the procurement and contracting process. My bill is simply about the advertising restrictions and so leases and things of that nature aren't being touched with what I am touching here. And this is kind of a simple prohibition that we have during election years to just kind of make it really discreet and keep clear that, you know, ads featuring a person are or are not campaign ads. This would just make the ban to be all four years rather than just during every Governor election year. For me, just kind of-- from how I thought about it, obviously, there was kind of some higher-profile discussion of a certain individual. And I kind of viewed this as an opportunity to-- for reflection, a teaching moment, whatever you want to call it, just to kind of see-- we, as Legislature, you know, is this set up how we want to do it? Is this set up how, how we, how we would like? You know, I think about us being the Legislature, being very cautious and good stewards of the public's money. And this is kind of a moment when we recognize kind of some of the authority and discretion some of the constitutional officers have on kind of wide sums of money. And so this might be a good opportunity to just look and reflect and review and see what we think is appropriate. So with that, happy to work with anybody and happy to take any questions.

BREWER: Thank you for your close. Now if I jump back to that question I asked before, you know, does the financial disclosure office have oversight on the Treasurer?

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M. HANSEN: And so, yes. So like, for example, the-- the State Treasurer and, and other constitutional officers have to file the same Accountability and Disclosure Office materials that we have. And I believe that, for example, we all have to do a financial statement of financial interest every spring. So does the Treasurer and others. And so in that sense, they would have the ability to review. I actually don't know if there's much of an enforcement provision on this particular section. I-- I suppose in theory, maybe the State Auditor could be checking the use of funds. There's a little bit then-- you get into who audits the Auditor and I would have to follow up.

BREWER: That-- that was going to be [INAUDIBLE].

M. HANSEN: Yes.

BREWER: Who, who audits the Auditor?

M. HANSEN: I think-- I think at the end of the day, it probably falls back to the Legislature. And maybe that's something our Legislative Performance Audit Committee could raise or just an individual senator could bring up, but--

BREWER: All right. Well, valid point; I just--

M. HANSEN: Yeah.

BREWER: --never really thought that one through. OK. Additional questions for Senator Hansen? All right. Seeing none--

M. HANSEN: Thank you.

BREWER: --we will close on LB982 after I take a quick look at-- we do have--

DICK CLARK: [INAUDIBLE] support from the League of Women Voters.

BREWER: We have support from the League of Women Voters, none in the neutral, and none in opposition. All right, LB1195. Senator Morfeld, welcome to the Government Committee. Sorry for our empty room.

MORFELD: This is a much more friendly audience, I guess [LAUGHTER]. I might just stay here with you guys [LAUGHTER].

BREWER: You are always welcome.

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MORFELD: Ready to go?

BREWER: Ready.

MORFELD: OK. Senator Brewer, members of the Government Committee, for the record, my name is A-d-- Adam Morfeld, A-d-a-m M-o-r-f-e-l-d, representing the "Fighting 46" Legislative District, here today to introduce LB1195. LB1195 makes relatively minor changes to the Nebraska Public Records Act. First, the bill clarifies that any citizen or resident of Nebraska may request to have access or to inspect public records held by a government agency. The existing statutory phrase refers to citizens of Nebraska, which is somewhat inaccurate, as the people in Nebraska are not considered Nebraska citizens, but are referred to as residents of Nebraska. The change is intended to correct this awkward terminology. Incidentally, there's a similar change that is contained in a bill by Chairman Brewer, LB150, I believe, which is presently pending in this committee. Second, the bill also states that any public records stored on a public or on computer files by government agencies are to be considered public records, regardless of the form in which the records are stored. This is to clarify that public records are public records, even if they are stored in a digital nonphysical format. Finally, this bill was brought to me by a constituent during the bill introduction phase of this session. I understood why my constituent wanted me to introduce this bill, but I did not necessarily believe it was necessarily needed so I introduced it at the last minute to make sure that we had it just in case. I'd be happy to answer any questions for the committee and go from there. Thank you.

BREWER: So is this LB150 a better bill than LB1195?

MORFELD: Well, if it's your bill, Senator, it probably is.

BREWER: I don't know. Really, the Chairman is asleep at the wheel or else he should have got that out of here by now.

MORFELD: I'll be honest. I don't know what is in LB150, but--

BREWER: [INAUDIBLE] it's my bill.

MORFELD: --apparently something good is in it [LAUGHTER]--

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BREWER: It's my bill. I'm not sure what's in it either, but I'm going to find out [LAUGHTER]. Thank you. All right. Questions? Questions? Well, I hate to make this a short stop for you.

MORFELD: That's OK.

BREWER: You are going to stick around for close?

MORFELD: I'm probably not, actually.

BREWER: OK.

MORFELD: I want to be there for the-- for the next bill in Judiciary, if that's OK.

BREWER: I know how passionate you are. OK.

MORFELD: Thank you very much.

BREWER: All right. We'll waive on the close for that. We'll go now to see if we have any testifiers in-- that are proponents? Anyone testifying as an opponent? Anybody in the neutral? All right. With that said [LAUGHTER], we will-- we waive closing. And so that will close the hearing as soon as we check for letters.

_____ : That's a record.

_____ : No letters.

BREWER: We have no letters. So with that, we will close on LB1195 and we'll close our Government hearing for today.