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Rules Committee
January 13, 2015

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The Committee on Rules met at 1:30 p.m. on Tuesday, January 13, 2015, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on proposed rules changes. Senators present: Tommy Garrett, Chairperson; Dave Bloomfield; Galen Hadley; Bob Krist; Jeremy Nordquist; and Paul Schumacher. Senators absent: None.

SENATOR GARRETT: (Recorder malfunction)...committee meeting. We'll get started here. I'm Senator Tommy Garrett, the Rules Chairman. This is my first rodeo with...first opportunity on the Rules Committee and first opportunity to chair a committee. I think we'll go around, we'll start off by going around the room, have the senators introduce themselves.

SENATOR KRIST: Bob Krist, District 10, northwest Omaha and Bennington.

SENATOR NORDQUIST: Jeremy Nordquist, District 7, downtown and south Omaha.

SENATOR GARRETT: Tommy Garrett, District 3, Bellevue and Papillion.

SENATOR BLOOMFIELD: Dave Bloomfield, District 17, the northeast corner.

SENATOR SCHUMACHER: Paul Schumacher, District 22, Platte, part of Colfax, and Stanton Counties.

SENATOR HADLEY: Galen Hadley, District 37, the city of Kearney and part of Buffalo County.

SENATOR GARRETT: I think most of you are familiar with the rules. We'll ask that...we've got eight proposed rule changes and we'll take them in the order that they were given. We'll ask you to come up. We're not going to use the light system. We're not going to have a problem with time. Introduce yourself and spell your first and last name and present your proposed rule change. And I think the way we're going to work this is we'll go into Executive Session at the end and vote on the proposed rule changes. And so I ask that you please check your cell phones and put them on stun, silence them. And if you have any conversations or anything, we'd ask that you take them out in the hall and so it doesn't disturb the committee meeting. I believe our first proposed rules change is Senator Coash, Rule 5, Section 5, Scheduling of Bills and Priority Bills.

SENATOR COASH: Well, thank you, Senator Garrett and members of the Rules Committee. For the record, I'm Senator Colby Coash of the 27th District, C-o-a-s-h. I come to you as a six-year

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member of the State-Tribal Relations and a two-year Chair of that committee. In the six years that I've been on the committee and particularly in the last two years as Chair, I believe that the State-Tribal Relations Committee has kind of found its...found its niche, started to assert itself in the role that was outlined for it when the committee was created in our statute about 12 years ago. Since then, the State-Tribal Relations Committee has introduced a few bills through me, and it has...it was a little bit of a challenge over the past couple of years to get some of those bills heard without, frankly, using a priority bill designation of my own. And as I started to look at where this committee may be going, I feel that it might be worth our consideration to allow the State-Tribal Relations Committee to have one priority bill, not dissimilar from the state Planning Committee or the state Audit Committee, who are also designated as special committees who do have priority bill designation ability. So I worked with the Clerk's Office, who was instrument...who helped me draft this rule change so that, should the State-Tribal Relations Committee rally around a particular initiative within the purview of its committee structure, that that, a bill, could be delivered to the Speaker and designated as a priority bill and heard that way. So that is the purpose of the rule change I present to you today. Thank you, Mr. Chairman.

SENATOR GARRETT: Have any questions from the committee members? Senator Bloomfield.

SENATOR BLOOMFIELD: Thank you. Senator Coash, would you be willing to make it understood that it had to...that priority bill had to be related to tribal issues so that we, as a Tribal Committee, couldn't just decide we wanted a motorcycle helmet repeal as a priority committee?

SENATOR COASH: Well, that...

SENATOR NORDQUIST: Dave is already thinking over there, right? (Laughter)

SENATOR KRIST: Just as an example.

SENATOR BLOOMFIELD: Yeah.

SENATOR COASH: Just as...(laughter). Senator Bloomfield, I think...I think that's appropriate. I mean the bills...I mean Tribal Relations gets to meet at the request of the Chair. It does not have bills referred to it as standing committees do. And so the subject matter of the bill is going to go to the subject matter of that standing committee. However, whether it's HHS or Judiciary, whatever the committee may be where that committee puts a bill through, that's where it goes. And it would be my intent, if it needs to be more clear, that the bill designated by the Chair of the Tribal Relations Committee be under the same purview of the Tribal Relations Committee.

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SENATOR BLOOMFIELD: Okay. Thank you.

SENATOR COASH: It's not my intent to use this as another vehicle for a bill unrelated to Tribal Relations.

SENATOR GARRETT: Senator Nordquist.

SENATOR NORDQUIST: Just a comment: And the Speaker would still have discretion whether or not...the order that it would come up of priority designation. If he felt it was something that was outside the scope, he could probably use his discretion not to schedule it, I suppose.

SENATOR COASH: That would be my...that would be my understanding as well,...

SENATOR NORDQUIST: Okay.

SENATOR COASH: ...that it would follow the same priority designation process as the committee priority bills and senator priority bills follow as well.

SENATOR GARRETT: Senator Schumacher.

SENATOR SCHUMACHER: Thank you, Senator Garrett. Senator Coash, could you give us some examples of what type of bill you would see coming out of the Tribal Committee that wouldn't get prioritized under some other mechanism?

SENATOR COASH: Sure. This last year would be a good example. The Tribal Relations Committee put forth a bill dealing with the Indian Child Welfare Act, which is...which came to the standing committee of HHS. And it dealt with how Native American children are dealt with in the child welfare system, because Native American children have special protections under federal law because of their designation as a tribal member. That bill was introduced by the committee through me. It did make it through the HHS process and I was able to get portions of that bill passed through amendment but not as an individual priority. If I wasn't able to do that, I would have had to use my own priority bill designation in order to get that through. As it turned out, I didn't have to, but there will be...there's other bills dealing with Tribal Relations that go to Government, how tribes are recognized in our state. There's bills, Child Welfare Act is one that comes to mind. So there are bills that do fall under this purview.

SENATOR SCHUMACHER: Thank you.

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SENATOR GARRETT: Senator Krist.

SENATOR KRIST: Since you, Senator Coash, since you brought up ICWA, it's still my understanding that the only ICWA representative or expert is still out on extended medical leave. And my fear is that with no one watching those issues, tribal issues, jurisdictional issues, particularly removal of a child for safety reasons, the state is clearly in jeopardy of having us called on it, either legally or some other way. And I would hope that if this designation does happen, that you would pay particular attention to ICWA. I think it's a...a one-deep position is not sufficient for the amount of trouble we can get into with tribal matters, as you know.

SENATOR COASH: I would agree, Senator Krist. It's a little bit outside the purview of this rule change, but your point is well taken. The Department of Health and Human Services, although has many children, a disproportionate amount of children in our system are Native American. And those children have to be treated specially, not just because they're children, because they're Native American children. And the department, as you mentioned, is woefully unprepared to do that due to staffing issues. And it is going to take some level of oversight by our branch of government to make sure that those children are taken care of within the confines of the law. Otherwise, we're getting ourselves in big trouble.

SENATOR KRIST: Thank you, Senator. Thank you, Chair.

SENATOR GARRETT: Any other questions from the committee? Thank you, Senator Coash.

SENATOR COASH: Thank you, Senator Garrett.

SENATOR GARRETT: Are there any proponents in the audience that would care to come forward? Opponents or those testifying in a neutral capacity? Okay. We'll proceed to the proposed rule change number two, which is Senator Larson on Rule 3, Section 11, "Conduct During Committee Hearings."

SENATOR LARSON: Thank you, Senator Garrett, members of the Rules Committee. My name is Tyson, T-y-s-o-n, Larson, L-a-r-s-o-n. I represent District 40, northeast, north-central Nebraska, and I'm here to propose...to talk about proposed rule number two, Rule 3, Section 1, specifically section (b) of that, and it concerns the electronic submission of documents and it would say copies...part (a) essentially gives committee Chairs the ability to allow or...electric devices within their committee. And this part would essentially allow, in our rules, "Copies of any additional testimony and/or exhibits being presented may be transmitted electronically to the committee clerk for access by members choosing to use electronic data, as allowed by the

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committee chairperson." And, "These document submissions may occur via electronic mail, disk, or portable drive and shall be placed in an electronic file by the committee clerk." I feel that this is a way to, should a committee Chair wish to modernize their committee process, this sets it in the rules that they can do so. Right now, I think it's somewhat vague. And hopefully, as we move into a greener and more cloud-based, computer-based arena, we can move forward with this.

SENATOR GARRETT: Thank you, Senator. Senator Hadley.

SENATOR HADLEY: Thank you, Mr. Chair. Senator Tyson (sic), when they...you talk about the document submissions may occur via electronic mail, disk, or portable drive, placed in an electronic file by the committee clerk. So the person can walk in and, as they're walking up to testify, they can hand a disk to the committee clerk that's got their charts and files. So how do we get those to the committee members then?

SENATOR LARSON: I would say that if they hand in that disk that has everything, the committee clerk will then essentially take those and e-mail those to all the committee members.

SENATOR HADLEY: Is...have you talked to the clerks about the timing that they have to get everybody in...

SENATOR LARSON: Well, this...this...

SENATOR HADLEY: ...and signed in and...?

SENATOR LARSON: This would be up to, obviously, each committee Chairperson as...and if part two (ii) needs to be outlined a little bit, if the committee Chairperson wishes to do that, I guess we could add that into part two (ii) of (b). I think it's not mandating that they can but if a committee Chairperson wishes to. If someone hands in the disk right at the hearing, their charts and graphs might not be given out to the committees until after the hearing. But the ability to store it all and compile those and then send it to the rest of the committee later on would also be beneficial.

SENATOR GARRETT: That's a good question. Senator Schumacher.

SENATOR SCHUMACHER: Thank you, Senator Garrett. Senator Larson, a couple questions. Would you envision someone perhaps just submitting a link to an external Web page that had a presentation on it? Or does this have to be encapsulated on a disk or a portable drive?

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SENATOR LARSON: No, it doesn't have to be. As you can see, we, via electronic mail, e-mail. So if you...I envision, let's say, a registered lobbyist or even a member of just the general public wish to ensure that some documents were in front of the committee, that they could e-mail them the day before or whatnot and that the committee clerk can ensure that they have all of those documents, all the senators have an entire compilation of the documents that were going to be presented at the hearing, just in a PDF file, again, should the Chairperson wish to...wish to go about that process. Now if a committee Chair would prefer to use all paper still, then that would be the process.

SENATOR SCHUMACHER: So do or do you not envision somebody preparing a Web page presentation, a PowerPoint presentation of some description, and mailing a link to that and they click on that and they go to, you know, Amazon.com/PowerPoint and see it? Is that within the purview of what you're proposing?

SENATOR LARSON: That could. That could definitely be a possibility. You know, I guess my more purview would be they would create that PowerPoint presentation and they'd e-mail that PowerPoint presentation to the committee clerk and that would be in a set of documents that are available to all the members of the committee and the general public as well.

SENATOR SCHUMACHER: Or you envision a USB-type drive?

SENATOR LARSON: If that's...if that's how they...you know, if a member of the general public were to bring that up to the committee clerk at their time of hearing, at the time of the hearing and give that to the committee, then obviously it wouldn't be available, as Senator Hadley pointed out, that immediate second because the committee clerks are doing other things. But it would be able...that committee clerk would be able to transmit all of that back to the members of the committee at a later date.

SENATOR SCHUMACHER: So the USB key would be brought up to the clerk. They'd plug it into a computer...

SENATOR LARSON: I think you're...no, I think you're over thinking it. That, like, if they brought up a USB drive, it couldn't be transmitted directly to the rest of the committee immediately, whereas if they brought...sent an e-mail the day before, the committee would have all the information at their fingertips at that point. If they brought up...if I brought up a USB drive right now, I don't think the committee clerk could get all that information to the committee members within the ten seconds that they're sitting there.

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SENATOR SCHUMACHER: But what if they brought up the USB drive a day ahead of time?

SENATOR LARSON: Then yes.

SENATOR SCHUMACHER: Should we have something about that "day ahead of time" in here and the...?

SENATOR LARSON: As, you know, I think by leaving it up to the committee Chairperson, because it may be, like I said, part two (ii) of the rule, the Reference Committee Chairperson we did in part one (i), by leaving it up to the committee Chairperson people, they don't have to allow the electronic submission. This would just...this would give it up to that committee Chairperson. If they want to have it the day before or whatnot, that's...I think we have...you have to have that flexibility for the Chairperson.

SENATOR SCHUMACHER: What type of security do you envision on this electronic transfer so that some type of Trojan or executable isn't on that thing that infects the system? I mean are we looking at cost? Are we looking at some security guru having to look at this?

SENATOR LARSON: I don't think you're looking at any cost and, you know, I think one of the...I can't...I don't think it's the MS Society but I know we get secure disks given to us as...that have information on them quite often from different groups. I don't...I think you get them as gifts or whatnot. If you want to get rid of the USB drive, Senator Schumacher, I'm more than...

SENATOR SCHUMACHER: I'm just...thank you.

SENATOR LARSON: ...I'm more than happy. I mean we...if you want to just leave it to electronic mail and PDFs, I think we are all fairly secure in terms of what those are and we all share e-mails with PDFs and open those PDFs in e-mail. So if you're worried about the Trojan drives or the cost, I don't think...if you want to get rid of the disk and portable drive, I'd be more than happy if you're worried about that Trojan horse.

SENATOR SCHUMACHER: Thank you, Senator.

SENATOR GARRETT: Senator Bloomfield.

SENATOR BLOOMFIELD: Thank you, Senator Garrett. Senator Larson, there are members of this body that are not real fond of electronic stuff, and there are some that publicly say they don't

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use it. What do you intend to do with the likes of Senator Chambers and, to a lesser extent, myself?

SENATOR LARSON: Well, at this point, like I said, this is up to the committee Chair people and if the committee Chairman is working through more of an electronic mode, I think we all have two staff that can hit Command P and print off the documents to ensure that those of you that prefer not to use electronics or electronic communication will still have the paper copies of everything. So I don't see that being an issue. Those that do prefer electronic communication will be able to do that and will be able to cut costs as a Legislature in terms of the amount of paper being used and resources being used on things of that nature. And those of you that still wish to use paper can print it out.

SENATOR BLOOMFIELD: Okay. Thank you.

SENATOR GARRETT: Senator Nordquist.

SENATOR NORDQUIST: Thank you, Mr. Chairman. Thank you, Senator Larson. So for this to operate at least with the day before or maybe even by noon submission, the Chair would have to authorize the use of mobile, portable, or wireless communications devices. I know some Chairs don't mind if you send an occasional text message or something, but have any of our Chairs allowed, up to this point that you know of, the use of laptops sitting up here with us? I don't remember seeing...

SENATOR LARSON: I know I will be in the General Affairs Committee, and I know Senator Murante will be in the Government Committee, so.

SENATOR NORDQUIST: Right. Because, yeah, that's the only way to reduce the paper, because otherwise it has to be printed and handed out anyway, so that really doesn't help.

SENATOR LARSON: Exactly.

SENATOR NORDQUIST: Okay.

SENATOR LARSON: So I know...I know at least two of us will be. I guess Senator Murante told us that today. In our Exec Session maybe he can...I still assume that that's the case. So there will be at least two Chairs that are allowing laptops and all portable electronic devices within their committees.

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SENATOR NORDQUIST: Okay. Thank you.

SENATOR GARRETT: Any other questions? Thank you, Senator Larson.

SENATOR LARSON: Thank you.

SENATOR GARRETT: Are there any proponents? Opponents? Or anyone testifying in a neutral capacity? Okay, we'll proceed to proposed rule three, Senator Murante, Rule 7, Section 5, "Call of the House."

SENATOR MURANTE: Thank you, Chairman Garrett, members of the Rules Committee. My name is John Murante, M-u-r-a-n-t-e. I'm the state senator for District 49, which is Gretna and northwest Sarpy County. I'm here today, and if I may, Mr. Chairman, I might address rule three and four together, as they are substantially similar in nature.

SENATOR GARRETT: Okay.

SENATOR MURANTE: This is part, as those of you who were on this committee for the last two years are aware, I have an interest in taking a look at, over the previous biennium, the sort of standard operating procedures by which this Legislature operates, the ways in which we have all sort of agreed to work the Legislature and then codifying those into the rules. So what you see before you is not so much a change to how we operate but taking how we operate and putting it into our Rule Book. So rules three and four really deal with...it's not the most substantive matter ever but whether we have to remain in our seats during calls of the house and during Final Reading. As many of you have probably observed, there are members of the Legislature, and I have...would include myself over the period of the last two years, who, for whatever reason, have grown tired of sitting and just stand next to their chair or something similar to that. I understand the rule to be confined during important votes and to make sure that we have a quorum during a call of the house, but I believe this conforms to the way that the rule is currently applied and that's what I intend to do here. That's it.

SENATOR GARRETT: Thank you, Senator Murante.

SENATOR MURANTE: Uh-huh.

SENATOR GARRETT: Questions from the committee? Senator Schumacher.

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SENATOR SCHUMACHER: Thank you, Senator Garrett. Right now if somebody has a back problem or gets a cramp or something because they're sitting there too long during these procedures, how is it handled? I haven't observed in the last four years at all that it's been a big issue.

SENATOR MURANTE: It probably hasn't been a big issue, but there have been a number of instances, I know, where members have been standing up and in some instances the Sergeant at Arms will go tell them to sit down. And then there has been an instance or two where that's caused a little bit of conflict. So this is hoping to alleviate any future conflict and especially putting our Sergeant at Arms in kind of a rough spot.

SENATOR SCHUMACHER: But now what we have, doesn't that kind of create the presumption that you should be sitting and it's only an exceptional situation, that everybody can recognize as being exceptional, that undoes that presumption, rather than tell everybody they can stand up?

SENATOR MURANTE: Well, right now we don't have an exception. There isn't. There is no...

SENATOR SCHUMACHER: Right. But...

SENATOR MURANTE: ...asterisk for exceptional circumstances. It just says sit down.

SENATOR SCHUMACHER: I know Senator Chambers, for example, has got back issues. And nobody has carted him off the floor. Everybody recognizes he's got back issues and, you know, that's accommodated. That probably would have to be under federal law. But I'm just not seeing why you apply that if it's not really broke, don't fix it thing; why we're almost making it permissible for people to be standing up when we're trying to march things through Final Reading. And it's a fairly clean procedure right now.

SENATOR MURANTE: Yeah. I'm not sure how people standing next to their chair would slow the process of Final Reading. I think that, you know, the time restrictions, whether they be for when we've suspended the at-large reading or whether we just have the regular vote, this doesn't really change any of that. I don't see how it could possibly slow things down. There have been instances where members other than Senator Chambers have been standing up. That much is certain. And this hopes to conform just so we're all on the same page. Everyone is...it's just across-the-board harmonized.

SENATOR SCHUMACHER: Thank you, Senator.

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SENATOR MURANTE: Uh-huh.

SENATOR GARRETT: Senator Krist.

SENATOR KRIST: Thank you, Chair. Thank you, Senator Murante. And I guess I'm going to talk to the elephant in the room, because I'm the only one that's presided over this mess at times. It's very apparent, when Senator Chambers came back to the body. Everyone sat during my first two years, two and a half years. Senator Chambers came back and the challenge was issued to the Red Coat, and I've heard the challenges: make him sit down and I'll sit down. I don't appreciate that from colleagues in terms of respect of the rules and of the institution. But as a presiding officer, it puts you in a position of saying, Senator Chambers, unless you ask me for an exception, which under one of these is not even an exemption that can be granted, we put ourself in that position. Now I understand your...you would never make someone who is...who had a back problem sit, nor would you make Senator Wightman, for example, who had his knee removed and sat in his chair during most of our proceedings, would we try to make him stand. But I believe that what Senator Murante is saying is this removes any doubt that if you're in the immediate vicinity where you need to be and where you need to be responding, that it takes...it is compliance with the rules to be in the immediate vicinity. And therefore, if there's a reason why you want to sit, you sit. Hopefully you do sit, but you're encouraged to stand. I think we should potentially look at the wording. I think this wording works, but if we're concerned with the wording, in your seat is desirable, in the immediate vicinity is acceptable. We certainly don't want to put our Red Coats in the position of being told to bugger off, for the record. So that's my perspective from presiding. Thank you, Chair.

SENATOR GARRETT: Thank you, Senator Krist. Senator Hadley.

SENATOR HADLEY: Yeah, Chair Garrett. Thank you, Senator Murante. Just a couple; one is a question on "within the immediate vicinity of his or her seat." Is that in the lounge? Is that...because someplace in here we talk about the Legislative Chamber, the Senate Lounge, and the hallway connecting the two.

SENATOR MURANTE: Uh-huh.

SENATOR HADLEY: Or is it at the end of the...end of my own aisle? Is it...can I cross the aisle and start talking to somebody and that's in the "immediate"?

SENATOR MURANTE: I actually thought about proposing a readily identifiable standard, such as arm's length. You have to be able to touch it or something like that. Ultimately, I decided on

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"the immediate vicinity," which to me is you are basically arm's length away from your chair. That's what I have in my mind anyway as envisioned for what it's supposed to be. It's not the lounge. You are suppose to be able to press your button and it has to be that close. To the extent that there is language that we can achieve that end, I'm not set on this. This was just...ultimately, I decided on the broader language because I...in the hope that we could all sort of be "statespersons." And we're all sort of members of the Legislature. We can behave as such.

SENATOR HADLEY: Well, I hope so,...

SENATOR MURANTE: Yeah.

SENATOR HADLEY: ...because I wouldn't want having to be sitting in the Chair's seat and arguing whether...

SENATOR MURANTE: Right.

SENATOR HADLEY: ...or a Red Coat comes and says, is he within...he or she within the immediate vicinity.

SENATOR MURANTE: Right.

SENATOR HADLEY: The second is more of just a comment, Senator Murante. You know, I think being in one's seat is very desirable on a call of the house and for Final Reading, because I think that sends a message to the public that we consider this a very important, very, very important issue. And I understand that some people need to stand, but I think the message that we're sitting in our seats, presumably listening to the procedures that are going on, sends a message that this is important. And I guess I'd just be a little concerned if suddenly we had 40 senators standing up talking to their neighbors and such as that. So I just put that out there.

SENATOR MURANTE: Sure. Well, I'd only respond to that by saying it's not my intention to have...start a principle debate about whether we should be in our seats or whether we should remain standing. To me it is how do we operate; how are we currently enforcing the rules. And it seems to me that this is, generally speaking, how we are actually currently enforcing the rules and...according (inaudible).

SENATOR GARRETT: Any other questions from the committee? Thank you, Senator Murante.

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SENATOR MURANTE: Thank you.

SENATOR GARRETT: Are there any proponents, opponents, or those testifying in a neutral capacity? Thank you. Then we'll proceed to rule...proposed rule change number five, Senator Murante again, which has to do with Rule 7, Section 3, "Motion, in Writing, Withdrawal."

SENATOR MURANTE: That's right. Same logic as the previous two. The Legislature determined last year to establish as a course of precedent, and perhaps it had in years prior, that the mainline budget was not divisible. We voted overwhelmingly to make it that way. And this simply conforms our Rule Book where we talk about the divisibility of questions and explicitly states that the budget is not divisible. About it.

SENATOR GARRETT: Questions from committee members? Senator Krist.

SENATOR KRIST: I see the Appropriations Chair here. Does he intend to say something to us as well?

SENATOR MURANTE: Apparently he does. (Laughter)

SENATOR KRIST: Then I'll save my question.

SENATOR GARRETT: Okay.

SENATOR KRIST: Thank you, Chair.

SENATOR GARRETT: Any other questions from the committee? Thank you, Senator Murante. Any proponents?

SENATOR MELLO: Good afternoon, Chairman Garrett, members of the Rules Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District. I'd like to start off this session thanking Senator Murante for proposing this rule. I know another member of the Appropriations Committee had approached me as well about bringing this proposal forward to codify what the Legislature essentially had ruled on last year with a vote that the budget bill was not divisible, in part because the process in the rules allows individual senators to propose unlimited amendments to the budget to strike out specific line items that they would so choose to request. Dividing the question of the budget, mainline budget bill, I'd also have a recommendation of the mainline budget bill and, arguably, other budget bills associated with the

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budget. As some of you may know, we do have a mainline budget bill and normally there is at least one, if not two other additional bills that are part of the overall budget that have multiple line items as well, mostly dealing with transferring of funds and/or changing language of the transferring of funds, which can range in the hundreds of different changes depending upon what's in the mainline budget. But the reality is our rules allows individual senator to submit unlimited amendments to the budget bill to strike out or to add whatever it is they so choose. If for some reason a budget was divided, as it was tried last year, the Legislature would then have to vote on every single line item within every single agency, as proposed by the budget, which could end up taking well into 30 to 40 days, depending upon how long the budget year is, if it's the first year of the biennial budget or the second year. So it's something that I'm grateful that Senator Murante brought this proposal forward. I think it codifies what we ruled on last year. And I'd urge the Rules Committee to adopt it with the addition of changing it, of addition to just the mainline budget bill, to incorporate mainline budget bill and other bills associated with the budget. Thank you.

SENATOR GARRETT: Thank you, Senator Mello. Any questions from the committee members? Thank you. Any opponents that would like to testify, or anyone in a neutral capacity? Okay. We'll proceed to proposed rule change number six, and I think Senator Schnoor will present the change.

SENATOR SCHNOOR: Good afternoon, Senator Garrett and fellow Senators. My name is Senator Dave Schnoor. I'm with District 15, which is comprised of Dodge County. Myself, along with Senators Kintner and Ebke, have proposed two rule changes for you to look at, rules number six and seven, which are simply the abandoning the process of secret ballots and doing an open roll call balloting when voting for committee Chairs, Vice Chairs, and elected officers. In the memo that was handed to you, it talks about transparency within our Legislature. Our Legislature was designed many years ago as a Unicameral, and the people of our state were the second house. And it was designed to be open and transparent, but yet we vote from day one in secrecy. And we're asking that to be changed. I'd like to read an e-mail from one of my constituents, many of them that I have received many e-mails. I've talked to many people about this, and this summarizes it very well. There is a time and a place for secrecy. That is when the nation's defense is at risk. I don't believe that happens in Nebraska in the Nebraska Unicameral. Another may be in a bidding process, to not give an advantage to another bidder. I believe Nebraska taxpayers deserve to know what goes on in their state government. How else will they know that their representative is voting in their best interest? In news stories I've heard the terms "hurt feelings," "delicate and sensitive," "touchy subject," and "retaliation." Isn't that what negotiating is all about? If your concern is that you might get burned, perhaps you should get out of the kitchen. If you favor transparency in government, thank you. If not, why don't you want to make every process of government open and accountable to the people? Your support is needed to stop the secret ballot process. Please support the accountability that keeps our government in

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the hands of Nebraska voters. That word "accountability" is very important. We expect the people of this state to be accountable as we take action in this Legislature and...and write Legislature (sic) and change laws. We want them to be accountable for their actions, but yet, when we start from day one, the appearance is that we're not accountable for our own. So that's why we are asking for these changes. Thank you, Mr. Garrett.

SENATOR GARRETT: Thank you, Senator. Questions from the committee? Senator Nordquist.

SENATOR NORDQUIST: Thank you, Mr. Chairman. Thank you, Senator. Are you aware with how in open meetings laws that we have this secret ballot provision in place for the other legislative bodies in this state, like school boards, city councils, and county boards, that they're allowed to do by secret ballot, and that is enshrined in state law?

SENATOR SCHNOOR: Yes. Yes, I am.

SENATOR NORDQUIST: Okay. And why do you think we need to depart from what we have enshrined in state law there and have a different procedure for this, for our legislative institution? Or do you think we should go and change theirs as well and take away the ability of secret ballot for those legislative bodies?

SENATOR SCHNOOR: I feel that's up to every...if you're talking about school districts, that would be up to them how they want to proceed with that. I feel within our Chamber here, within the Unicameral, that's where I feel we need to change. You know, I can't say what those school districts want or don't want to do.

SENATOR NORDQUIST: Right. But you don't see any reason to introduce a law to take away their option to do it.

SENATOR SCHNOOR: If that was introduced, you know, I feel, you know, if we're accountable to those actions then they should be as well. So I would not be...would not be opposed to that, no.

SENATOR NORDQUIST: All right. Granting this additional transparency, what do you think the outcome will be?

SENATOR SCHNOOR: The overall outcome?

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SENATOR NORDQUIST: Yeah. Yeah.

SENATOR SCHNOOR: The people know. The people want to know who's being voted on, who's being voted for.

SENATOR NORDQUIST: All right. Have you received, in your time...short time in the Legislature so far, have you received many calls from constituents asking you to vote for one person over another?

SENATOR SCHNOOR: Not in a particular instance asking me to vote for a particular committee member, no, just speaking in general.

SENATOR NORDQUIST: Okay. Okay. I know there was two years ago there was a real strong outside push by some groups in the state, if you will, to encourage people to vote for specific individuals over another. But I can say in my ten years in this Capitol, as a staffer and as a senator, in my time taking phone calls from my predecessor and in my office, my staff has never taken a phone call having someone ask me to vote for a specific person. And I took this to a couple neighborhood associations that I visited since the start of the first of the year, knowing that this was going to come up, and I posed the question to them: You know, I know you talk to me about tax policy, about education policy, about everything else that you feel passionately about, but do you think, you know, you have the insights to inform me on who to vote for? And resoundingly their answer was, no, directly from my constituents, saying, we don't know the ins and outs of your colleagues and who you can trust and who to vote for. And that's why I think we have, I haven't at least in my time in talking to other staffers around the Capitol, seen calls in to our office saying, vote for this person over that person. So I think, you know, this is significantly different than choosing a policy. We're choosing people here to run our body. But that's just my thoughts.

SENATOR GARRETT: Thank you, Senator Nordquist. Any other questions from committee members? Senator Schumacher.

SENATOR SCHUMACHER: Thank you, Senator Garrett. Now just so I understand the gist of this, every, with the exception of the election of these personalities for the various offices, every committee vote we take is recorded, isn't it?

SENATOR SCHNOOR: Every committee vote?

SENATOR SCHUMACHER: Right, on an issue, on a bill.

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SENATOR SCHNOOR: Yes.

SENATOR SCHUMACHER: Everything we say in committee is recorded and public, isn't it?

SENATOR SCHNOOR: To the best of my knowledge, yes.

SENATOR SCHUMACHER: Right. Everything we say on the floor is recorded and public, isn't it?

SENATOR SCHNOOR: Yes.

SENATOR SCHUMACHER: Every vote we take on every stage of proceeding is recorded and public, save and except for these personality issues. Is that correct?

SENATOR SCHNOOR: Yes.

SENATOR SCHUMACHER: So we have a great deal of transparency. Is that not true?

SENATOR SCHNOOR: Other than the secret ballots, yes.

SENATOR SCHUMACHER: And are you aware if we have any secret caucuses, like they have at the Congress where a political party will go in secret into a caucus and elect its leadership, do we have any of those here?

SENATOR SCHNOOR: I guess I'm not sure how that process works.

SENATOR SCHUMACHER: Your caucus meeting, that was public, wasn't it, your 3rd...what district are you in?

SENATOR SCHNOOR: 15.

SENATOR SCHUMACHER: But Congressional district. Third?

SENATOR SCHNOOR: Oh. One.

SENATOR SCHUMACHER: One? Okay. That was a public meeting, wasn't it?

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SENATOR SCHNOOR: I'm not sure. That took place before I got here...

SENATOR SCHUMACHER: Okay. All right. But...

SENATOR SCHNOOR: ...but I'm assuming yes.

SENATOR SCHUMACHER: ...at every level of government there's a little bit when you're dealing with personalities. And at the congressional level the Republicans go into secret caucus, the Democrats to into secret caucus to elect their leadership. Isn't that the case?

SENATOR SCHNOOR: It may be, yes.

SENATOR SCHUMACHER: And why do you suppose they do that? Why do you suppose that happens on school boards, with Republicans and the Democrats in Congress? Why do you suppose at somewhere along the line our people who sat in these chairs before us said, you know, we need to make this personality vote one that's secret; it would serve the people of the state? Somebody came to that conclusion at one point, as well as in these other bodies. What would you suppose that would be?

SENATOR SCHNOOR: I'm not sure.

SENATOR SCHUMACHER: Thank you.

SENATOR GARRETT: Senator Schnoor, I have a question. What effect do you think this rule change would have on the nonpartisan nature of the Legislature? We're a nonpartisan institution. Do you think having transparency in our electing the Chair or the Vice Chair of the committee, do you think we'd still be able to maintain that nonpartisan flavor?

SENATOR SCHNOOR: That's a very good question and, you know, I guess there is a possibility it could open that up where things do become partisan.

SENATOR GARRETT: Yeah. My sense is that that's one thing that the elections typically allow us to be more nonpartisan. Truth be told, we should all be able to stand by whoever we vote for and be able to defend our position regardless of what party they're in. But nevertheless, not everyone has that ability to do that. You know, I'm struck by the fact that, you know, when we vote for President, when we vote for Governor, when we vote for Senators, Congress, we do that

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in secret. I mean we as citizens, we do that. You know, do we want to open up our elections? You know, should we make it transparent who we as legislators vote for?

SENATOR SCHNOOR: You make a very good argument and I just can't deny that.

SENATOR GARRETT: Yeah. I feel that we have a lot of transparency, as Senator Schumacher was saying, in policy that we establish, the laws that we pass. All of our statements, all of our votes are out there for our constituents to see. And so I'm torn between keeping us nonpartisan, because I'm afraid. I love transparency, but I'm afraid that electing our committee Chairs, our Speaker is going to introduce a level of partisanship there that I'm a little leery of, trying to defend the precepts, the foundation of this institution being a nonpartisan Unicameral.

SENATOR SCHNOOR: Yes, sir.

SENATOR GARRETT: Senator Nordquist.

SENATOR NORDQUIST: Yes, sir. And I just kind of Senator...Chairman Garrett's comments made me think of the other pressure. And while, you know, maybe my constituents don't feel that they are and tuned in to push me to vote one way or another, there certainly could be other outside influence. And certainly, as someone who believes in a strong, independent legislative branch of government, do you think there could be outside influence from a Governor who maybe wanted to push his or her agenda, no matter which party, put influence on legislators saying, you vote for my guys because they're going to push my policy and if you don't, you're on my list? I mean do you see that potentially happening too, create an executive influence in the legislative body?

SENATOR SCHNOOR: I think to a degree that probably happens anyway. This is just one small process that we go through to enact legislation. And in thinking about your previous questions, as I explained to some of my constituents, you know, you have been here for several years. I am here for one month. I've seen some of these folks for one day and I'm supposed to vote for them in an office. So for somebody to give me information, you know, and to vote one way or the other, you know, has that happened? No, it has not. I'm just speaking of the process in general terms of going to a roll call vote versus a secret balloting process.

SENATOR NORDQUIST: All right. Thank you.

SENATOR GARRETT: Senator Bloomfield.

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SENATOR BLOOMFIELD: Thank you. Senator Schnoor, I want to thank you for bringing this. I know this has been kicked around the Legislature for two or three years now. The fear seems to be that if we do this that the Republican or the Democrat Party will have a major influence on how we vote. And while I am generally opposed to the idea of what your proposal is here, from what I've seen of the Democratic and the Republican Party, they couldn't organize a chicken fight in a henhouse. (Laughter)

SENATOR NORDQUIST: We can all agree about that.

SENATOR KRIST: Hear, hear.

SENATOR BLOOMFIELD: I don't think that would be an issue. Have you...I have not had any contact from the Republican Party on this issue. Have you?

SENATOR SCHNOOR: Only from one or two members. From the Republican Party in general, no,...

SENATOR BLOOMFIELD: Okay.

SENATOR SCHNOOR: ...just from a lot of constituents in my district.

SENATOR BLOOMFIELD: I have had not one contact from constituents within my district. I have been contacted by numerous senators. Thank you.

SENATOR GARRETT: Senator Krist.

SENATOR KRIST: Yeah. I wasn't going to say anything but I brought this initiative forward three years ago, took it to the floor, and it was horribly defeated by a more senior group of senators. And I happened to be a very junior senator at the time. But I want to respond to Senator Bloomfield's comments. I have been, both privately and publicly, contacted by leadership in the Republican Party telling me once again if I'm a real Republican I need to do what I need to do. And you know that joke. We've shared that joke about define for me what a real Republican is. I do cherish the nonpartisanship, and I assure you when we're in Exec Session we will have a discussion and there will be a vote. But rest assured that there are people in this state that would like this Governor to corral the group of Republicans in this body and do what needs to be done for the Republican Party. I do not share that and I really respect Senator (sic) Ricketts for staying out of this and allowing this to be a legislative decision. That's been communicated to me from that level as well. It is our decision to make and it will be made here as we take it forward or

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don't take it forward. My last comment on the subject is, publicly, is simply to say those that would have threatened and those that would have coerced me have pushed me to an edge of making the decision that I will make personally. And the next time they decide to take that fight with me they need to think about who I am and what kind of decisions I make for myself and for what I think the good of this body and this tradition is, because I feel very strongly about the traditions in this Legislature. Thank you, Chair.

SENATOR GARRETT: Thank you, Senator Krist. Senator Hadley.

SENATOR HADLEY: Chair Garrett, Senator Schnoor, thank you for bringing this because this is something we have talked about. It may sound facetious, but I would really like us to go to the Illinois system where Speaker Madigan makes every decision that's made in that body. (Laughter) He chooses who's going to be the Chairs. He chooses who's going to be on the committees. He chooses what the committees are going to take up in the way of bills. He chooses which bills get to the floor. And the story I heard one day that was supposedly true is that they had a new representative come in and she made the comment that some of her friends were Republican members of the House, and he says, that's not good. And she says, well, they're still going to be my friends. The next day she found her desk in the hallway. So that's the kind of power that if we're going to make things change...but on a serious note, I worry that we move further down that kind of path of dividing this body into Rs and Ds. And I'm not saying it's just the Rs, because, you know, someday we could have a D majority in here and you suddenly have 14 standing committees that are chaired by Democrats because they have the hammer. The last thing I'll say, I have had some people e-mail me. And what was interesting, I took the time to e-mail them back because their concern was is how one particular Chairman, who will remain anonymous, somehow was able to stop legislation in a committee. And I explained to them that the committee can move legislation or stop legislation and, as a Chair, you may not be able to do anything about it. As Chair of Revenue, I had lost two or three 6 to 2 votes where I was with the 2. It's the makeup of the committee that determines quite often which bills are pushed out and which bills are not pushed out, not the political party of the...or the political leanings of the Chair. So, Senator Schnoor, I think it's a...I'm glad you brought it up but I just worry it moves us further down the partisanship level.

SENATOR GARRETT: Any other questions from committee members? Thank you, Senator Schnoor. Appreciate it.

SENATOR SCHNOOR: Thank you, sir.

SENATOR GARRETT: Okay.

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SENATOR NORDQUIST: Was that both six and seven?

SENATOR GARRETT: That was six and seven, so we will proceed to proposed rule change number eight and...

SENATOR BRASCH: Proponents? Are you asking for proponents?

SENATOR GARRETT: Oh, I'm sorry. I'm sorry, Senator Brasch. Proponents? My apologies.

SENATOR BRASCH: That's okay. I am Lydia Brasch, L-y-d-i-a B-r-a-s-c-h, and I represent the 16th District. I sit here today as a proponent of this rule change. I remind us that we are representatives of a given number, 36,000-38,000 individuals who trust us to make the right decision. Is the confidence of the public always there statewide? The confidence that if we have something secret, a secret ballot, is that confidence there? I have had constituents, and not the political parties to be, ask of me why is it secret ballot. Well, it's a rule it's secret ballot. Why? They wonder, you know, why is it secret ballot. In my four years I have seen...and I, too, like Senator Krist, have brought this rule forward. I have seen senators who did their homework, their checklist, checked it twice. They were positive, positive, without a doubt, they were the next Chair of a certain committee. After they were not the next Chair, they wondered who let them down, who didn't tell them the truth, who betrayed them, who were their friends. And it ate at them. It really ate at them. And talk about collegiality, that wasn't healthy for collegiality. It's best perhaps for us to not even ask, you know, will you support me, will you not support me, but I don't think that the secrecy is healthy for the environment here or healthy in building confidence statewide with our constituents especially. I'm here to represent them. I have numerous town hall meetings, e-mails that come in. And when you mentioned here about the push and the pull, we get push and pull every day and not from political parties. Mostly it's from this group or that group. And we get the phone calls from them. We get...and does it make us vote one way or another? I don't...I'm speaking for myself but I listen to all the testimony in committee. We work on committees. It's a group thing. But I don't believe that the secrecy is a benefit. I don't think it's a partisan...my members here, including myself, I was once a Democrat, I'm a Republican now. We've had Governors, U.S. Senators that were once one and changed to the other. And we have a colleague that I think was three parties while he was in office here. You know, I don't think that's an issue. I think the issue here is that when the Legislature first started it was not a secret ballot. It did not change until a secret ballot...until, was it the '60s or '70s?

SENATOR GARRETT: In '71.

SENATOR BRASCH: Yeah. There was a rule that came in that changed that. I, for one, want my constituents and the state to know without a doubt that there are no secrets here. You know, you

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see it on the board. What you see is what you get. We give everyone the same due respect, whether they're Republican, Democrat, Independent, Libertarian, you name it, that that's what we need to emulate; that it's the business of the day that we are here to do. And I, for one, have made no secret of who I have voted for. I've just posted it on Facebook here. And going back to, you know, Senator Avery, I supported him and I think we need to stand up to who we support and not need to hide who we support. You know, we are here because of our sweat equity, our boots on the ground, and individuals who want to see exactly what we're doing. And that transparency is essential. I believe it should go on to school board. You know, again, that's a local decision, but what are the damages in making public? Being open makes for good argument and good decision making and good policy making. So I do support this legislation. I want to thank Senator Schnoor for proposing it. It's tough to get grilled by every single member on this, the other side there, without a doubt. And for him just being in office in a month, he's a brave man. So I want to thank you for your consideration and I mean no ill will or ill harm to anyone because of their ideology politically. And I believe it a good day when we vote in the sunshine.

SENATOR GARRETT: Thank you, Senator Brasch. Questions from the committee? Senator Bloomfield.

SENATOR BLOOMFIELD: Thank you, Senator Garrett. It's more of a statement again. I sent out an e-mail to each senator's office asking everybody's opinion on this, and there was so much excitement about it that I got back a total of 11 responses. I don't know that this is something that people are all wired up about. That's just something I thought I should say.

SENATOR GARRETT: Any other questions? All right. Thank you, Senator Brasch.

SENATOR BRASCH: Very good. Thank you.

SENATOR GARRETT: Any other proponents? Any opponents or those testifying in the neutral capacity? Okay. We'll proceed to proposed rule change eight, Senator Scheer, who doesn't appear to be here. Committee members, you've got the proposed rule change before you, Rule 3, Section 2, "Appointment of Committees." I know, from talking to Senator Scheer, when we had the Committee on Committees meeting, when we had tentatively identified members of the committees, members of the press were there. So many of our colleagues found out what committees they were penciled in on when they read about it in the paper. And so I think that was the impetus of him proposing this rule. And so he's...essentially what he's asking for here is that the Committee on Committees submit an electronic report to our colleagues, the other senators, on what the tentative assignment, committee assignments are. Senator Nordquist.

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SENATOR NORDQUIST: Do you know, Chair Garrett, I saw, maybe it was that evening, it was up on the legislative Web site or maybe the next morning I know it was up. Do we...do you know when, how soon after, it was posted on the Legislature's Web site?

SENATOR GARRETT: I do not and I'm...

SENATOR NORDQUIST: Could Patrick testify to that?

SENATOR GARRETT: Patrick?

PATRICK O'DONNELL: If I can respond to that, Senator.

SENATOR GARRETT: Oh, yes.

SENATOR NORDQUIST: Yeah.

PATRICK O'DONNELL: As Senator Garrett, Senator Krist know, during that Committee on Committees process, once it's concluded and the committee has taken its preliminary vote, my office prepares the report and, in agreement with, at least this time, Senator McCoy, as Chair of the committee, we produce hard copies. We put it out on the Web site. You know, we probably didn't e-mail to members a copy that we certainly could have, so that was an oversight on my part.

SENATOR NORDQUIST: Okay. All right.

PATRICK O'DONNELL: But I mean it's...it takes us about an hour usually after the committee has finished its work.

SENATOR NORDQUIST: You're never going to beat JoAnne Young. I mean she's just right on it, so. (Laughter)

PATRICK O'DONNELL: Well, I think...you got it from us, right? Yeah.

SENATOR NORDQUIST: (Laugh) Right.

PATRICK O'DONNELL: So anyway, then I hope that...

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SENATOR KRIST: Chair?

SENATOR NORDQUIST: Yeah. Thank you.

SENATOR GARRETT: Okay. Thank you.

SENATOR KRIST: Well, I was...that's okay. You can go.

PATRICK O'DONNELL: No. No. I'm sorry.

SENATOR KRIST: No, I was just going to compliment your staff on the way that it happens. And I would make a statement that you can disagree with or not. It's up to you. But I was surprised. I've been on Committee on Committees during two...two years ago and then this year. There were folks mobbing us coming out of...two years ago. They wanted to know what, where, how. This year it didn't seem like anyone was around. So I'm not saying that it's not something we should consider in terms of e-mailing the individuals, if that's what it is, but the responsiveness of the Clerk's staff is (snaps fingers) Johnny-on-the-spot and it's posted as soon as they can get there. So thank you, Mr. Clerk.

PATRICK O'DONNELL: Sir, thank you.

SENATOR GARRETT: Any proponents for this proposed rule change? Opponents? Or testifying in the neutral capacity? Okay, this will conclude the formal part. Oh, I'm sorry. Speaker Hadley.

SENATOR HADLEY: Senator Garrett, just to be sure I understood, did we do seven, or six and seven together?

SENATOR GARRETT: Uh-huh.

SENATOR HADLEY: They were?

SENATOR GARRETT: Yes.

SENATOR HADLEY: We considered those together. Okay. I just wanted to be sure.

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SENATOR GARRETT: I think we...okay, I think this will conclude the formal public part of the Rules Committee meeting. And do I get a move that we go into Executive?

SENATOR BLOOMFIELD: I would move we go into Exec Session.

SENATOR GARRETT: Okay.

SENATOR NORDQUIST: Second.

SENATOR GARRETT: Seconded. So moved. We will go into Executive Session. Thank you all for coming.