

Transcript Prepared by Clerk of the Legislature Transcribers Office
Rules Committee January 16, 2019

CRAWFORD: All right. Well, good afternoon and welcome to the Rules Committee. My name is Senator Sue Crawford. I represent the 45th District in Bellevue and eastern Sarpy County and serve as Chair of this committee. We will start off having members of the committee and committee staff do self-introductions, starting on my right with our committee clerk.

CHRISTINA MAYER: Hello. I'm Christina Mayer.

LATHROP: I'm Senator Steve Lathrop from District 12.

ERDMAN: Steve Erdman, District 47: ten counties in the Panhandle.

M. HANSEN: Matt Hansen, Senator from District 26 in northeast Lincoln.

HOWARD: Sara Howard. I represent District 9 in midtown Omaha.

SCHEER: Jim Scheer, District 19 in northeast Nebraska.

CRAWFORD: Thank you. Also assisting us today are committee pages: Kaci, who is a political science and history major at UNL; and Preston, who's a political science and psychology major at UNL. So we thank them for their service. We received notice yesterday that the power to the building will be turned off tonight at 7:00 and we have a lot of rule proposals, so I'm just asking that introducers and testifiers keep your tests-- be expeditious in your testimony. This hearing runs just like a hearing for bills. We'll have the introducer introduce their rule proposal and then we'll have proponent testimony and opponent testimony and neutral testimony. And we will be using the light system today for public testimony and so we will be limiting testimony to five minutes for-- so you'll have a green light when you're speaking and a yellow light when it's about to turn red. And when the red light is on we ask you to wrap up your, your testimony. There are blue testifier sheets by the door and so if you are testifying please make sure you fill out a blue sheet and hand it to the clerk when you come in. If you have copies, please give those to our pages and they will pass them out. And if, and if you need additional copies, please let them know and they can help you with that as well. I would remind everyone, including senators, to please turn off your cell phones, to put them on vibrate. And with that, we will begin our hearing. We are beginning with Senator Briese's rule proposal. Welcome.

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BRIESE: Thank you. And good afternoon, Chairman Crawford and members of the Rules Committee. I'm here to present a-- I am Tom Briese, T-o-m B-r-i-e-s-e, represent the 41st District. I'm here to present a proposed amendment to Rule 7, and I'll note that after visiting with Patrick and some others, I revised my earlier proposal that you were presented in the book there, so I've offered an amended proposal there that hopefully addresses some of the issues that were brought forth by some individuals. My proposed change to this rule stems from some conversations I had this past summer with constituents in town halls. You know their, obviously, the number one issue is property taxes, but a recurring issue among those people that I talked to was the refrain that I watch the Legislature at home and you guys waste a lot of time down there. And so I began thinking about our obligation to this body and to all Nebraskans. Under Rule 7, Section 4, any motion to call the question must be demanded by five or more members of the body. My proposed amendment to Rule 7, Section 3, would require the same of any debatable motion that comes before our body if any member asks us for a show of five hands. The Nebraska Legislature truly is the people's institution. As state senators, I believe that we have a duty and obligation to protect this institution, and protecting this institution means many things. It means ensuring that our time here is used efficiently on behalf of our fellow Nebraskans. It means ensuring that no one individual has the ability to hijack the institution for his or her own agenda. It means ensuring that no one individual, out of spite or less than charitable motives, can control the institution. It means that no individual could slow walk an entire session. And that is what this proposed, proposed amendment is designed to do: to protect our institution from bad actors determined to subvert the will of the people and steal from Nebraskans their house. So let's take an example. Suppose a senator decides to go rogue on us and slow walk the entire session. With a combination of motions and amendments, any one individual can filibuster every bill at every stage of debate without the ability to defeat those bills. He or she can single-handedly cripple our institution. He or she can single-handedly hold Nebraskans harmless. I submit that we owe it to Nebraskans to prevent that from ever happening and I believe that this proposal can do that. What this proposal will do is require that no one individual can do this. Instead, the language I have proposed will require at least a modicum of support for any debatable motion or amendment. I spoke about this idea with a group out in my district this summer, and they happened to be economic development people. And they voice-- voiced considerable support for the idea. And one individual, an economic development director, he opined that the standard ought to be ten; instead of five

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it ought to be ten. And I agree with that since it takes 17 to filibuster anything. But, but since our current rules require five in the other category of calling the question, I thought five would be a more reasonable standard. And-- but-- and something important here is let's note that this proposal will not stifle minority or unpopular opinions. Those individuals, whether it's you, me, or anyone else, will still have the ability to express their viewpoints as they take advantage of the normal time allotted to speak on the floor on other issues. And as state senators, we have unusual and unique access to other forums to express those opinions, whether it's media interviews, newspaper interviews, a press conference, the op-ed page or so forth. So to summarize, this amendment to Rule 7 will protect-- will serve to protect the integrity of our institution. It will serve to ensure that our time here is used more efficiently. It will protect our institution from bad actors. It will be supported by the vast majority of Nebraskans, and it will not appreciably stifle, chill, or subvert unpopular views. And the bottom line is this. If you're the only one that opposes an idea, the only one that supports an idea, the only one that's angry about something, you should just have to take your lumps and sit down, really. And then you can go to the press. You can go to the Rotunda. You can go to the op-ed page. You can call up the reporters you know, but do it on your own time, not on Nebraskans' time. And this morning most of us, probably all of us, read a sexual harassment training hearing. And on the last page of that document they sent us home with somewhere here, one of the takeaways was that quote: You are all here to serve the institution of the Legislature. You're part of something bigger than yourself. Protect the institution. So I guess with that said, I'd humbly ask this committee to recommend adoption of this amendment I've proposed. Thank you.

CRAWFORD: All right. Thank you. Questions for the senator? Yes, Senator Scheer.

SCHEER: Thank you, Senator Crawford. Senator Briese, had looked at it and just sort of thought now, based on how our system currently works, a motion or amendment, until it actually-- you submit it, and a lot of times those amendments may be a floor amendment so they're literally typed in at the front. Without having access to literally see what the, the motion is, how do we go about providing adequate time? I mean how, how do you perceive the process working? Because if I enter an amendment to Senator Howard's bill and it may be a good one but no one

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knows what it is, so no one gives me five hands, we move forward. And so just trying to protect--

BRIESE: Sure.

SCHEER: --the ability of knowledge for everyone. How would this work?

BRIESE: That's a great question. I would submit that as proponent of that motion of that amendment, taking it upon yourself to educate at least a few other people to know what you have coming down the pipe here. And so, so some people out in the body know. And the way I've drafted this, redrafted the amendment, is going to have to take somebody in the body to challenge that. You know, they're going to have to ask the presiding officer, we need to see a show of five hands. But it's up to the proponent of the idea, of the objection, whatever the case may be, to garner some support. And typically, out of courtesy, you're gonna get that support. Anybody in the body typically is gonna be able to garner four other individuals to say, yeah, we'll go with you on this. But if and when things get out of hand, you're gonna have trouble getting that support and rightly so.

SCHEER: OK. Thank you.

CRAWFORD: Any other questions? Yes.

M. HANSEN: Thank you, Senator Crawford. Thank you, Senator Briese. Senator Briese, I have a similar question as to your amended version, just trying to think of the logistics.

BRIESE: Sure.

M. HANSEN: So let's just entertain a very simple hypothetical where Senator Crawford is filing a recommit to committee motion on Senator Lathrop's bill and Senator Lathrop objects to that. Does he wait and turn on his light and introduce it in the course of speaking? Does he raise his hand and get the attention of the presiding officer procedurally and does-- how, how does that part work [INAUDIBLE]?

BRIESE: I would submit you stand up, yell and wave at the presiding officer, we need to see a show of five hands.

M. HANSEN: OK.

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BRIESE: That would be my thought anyway. But I'm open to suggestions on any of this. This is simply a framework for what I think needs to be done.

CRAWFORD: Thank you, Senator Hansen.

M. HANSEN: Thank you.

CRAWFORD: Any other questions? All right, seeing none, appreciate your testimony.

BRIESE: Sure. Thank you.

CRAWFORD: Sure. We'll now take anyone who wishes to testify as a proponent of this rule change. Anyone who wishes to speak as an opponent to this rural change? Welcome.

NATHAN LEACH: Madam.

CRAWFORD: Please state and spell your name, and then we'll be interested to hear your testimony.

NATHAN LEACH: Madam Chairman, members of the Rules Committee, my name is Nathan Leach, N-a-t-h-a-n L-e-a-c-h, and I am in opposition to proposed rule change 2. I am, first of all, I'm really grateful to be here. I'm a student at UNK and I finagled a way to come here and borrowed a car. And unfortunately I didn't have a lot of time to prepare my remarks. I'm-- I'm off of a three-year hiatus from school and I just got back, so I'm still trying to juggle my homework and preparing testimony for something like this. But first of all, I think it's important to say that this isn't about multiple senator-- senators. This is about Senator Chambers. And one of the things that was mentioned by Senator Briese was this idea that the institution needs to be protected. I think it's important to reflect that Senator Chambers has been in this institution since the '70s. He is someone that epitomizes the, the importance of this institution. And efficient-- efficiency is important and I think it's important for us to find ways that we can fairly and productively change our rules to keep ourselves efficient. But we also have to balance the right-- rights of individual members. And so I was given a gift some years ago and it was a copy of Mason's Manual of Legislative Procedure, and it was probably the best gift anyone could have gave me. The person who gave it to me is probably haunted to this day that he did so.
[LAUGHTER] But what this, what this amendment resembles is a second.

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And it's more than a second, though. It's a second, third, fourth, and fifth in terms of you need the approval of five people before proceeding. And so Mason's Manual talks, in Section 157, on page 122, and I'm going to read subsection (5), there would seem to be good cause for dropping the use of seconds to motions because of their lack of utility, convenience, or necessity. Tilson says, quote, It would seem that nothing could be more nearly useless and unnecessary than for some unidentified voice from the midst of the assembly to boom, I second it, unquote. Subsection (6), an even stronger reason for abandoning seconds is that they are not in accord with the present day view of the rights and dignity of the individual. It is contrary to the theory of equality among the members. Parliamentary action is based on majority rule where each member should have one vote of equal weight. All members should have equal, individual, independent rights to propose to the assembly what they think it should consider. I think it's really important to note that Senator Chambers will be term limited out in two years, and hopefully he's able to run again after four years. But if we change our rules specifically to stop Senator Chambers, I think that we, we harm ourselves as an institution. Each one of you represents approximately 35,000 Nebraskans. And it may be the view of the vast majority of Nebraskans that Senator Chambers shouldn't come to the floor and says what he has to say. But the 35,000 people in his district have elected him overwhelmingly, by over 75 percent of the vote, to do so. And there is a mechanism within our rules to stop dilatory motions. It's not used very often. But if a motion is obviously dilatory, and I don't necessarily support dilatory motions, but that's the mechanism we have, and I don't think that this is necessarily the way to do it. However, if the fancy takes you and you want to do it, I would advise that rather than any one member standing and demanding a show of five hands I would-- I would make it up to the discretion of the presiding officer. So if the presiding officer sees that something's being dilatory, he could request the show of five hands. And I would also suggest that if you do it, I would lower it down to a second rather than a fifth. So again, I thank-- I'm grateful for the opportunity to be here. I have some thoughts on some other amendments and I'm excited for this process. Thank you.

CRAWFORD: Thank you for being here. Any questions for our testifier? Thank you. Anyone else who wishes to testify in opposition to the rule change? And is there any neutral testimony?

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JAMES WOODY: And this neutral testimony isn't specifically related to proposal number 2 but, rather, to the proposed changes as a package. Good afternoon, Chairwoman Crawford and members of the Rules Committee. My name is James Woody. For the record, that is J-a-m-e-s W-o-o-d-y. I reside in Senator Pansing Brooks's district. I'm a self-professed Unicameral nerd and I hold this institution in very high esteem. I'm a transplant from Oklahoma and every time I visit down south I sing the praises of our Nebraska one-house, nonpartisan state Legislature as a model of efficiency and collegiality which ultimately best serves the interests of the people of this great state. I come before you today in the neutral capacity to protest the manner in which this body's parliamentary rules have become fodder for political grandstanding and time wasting. When I visited my family over this past holiday season I did not sing the praises of the 105th Legislature, a Legislature that was, in my personal opinion, a failed Legislature starting from the very first day in 2017, the Speaker's laudable efforts at equitable leadership of that fractious body notwithstanding. The process of debating rules in that session played a very large part of the body's failure to address substantive crises facing our state with meaningful solutions. In the 2018 Session, facing a \$900 million dollar budget deficit, with multigenerational family farms declaring bankruptcy over liquidity challenges associated with property taxes, with a besieged Department of Corrections facing down a lawsuit with potential liabilities in the hundreds of millions of dollars, that Legislature spent fully one half of their 60-day session bickering over three issues of questionable import: first, the parliamentary rules governing body and the issue of the filibuster; second, LB46, a silly and needless automobile license plate authorization; and 3, a budget provision defunding women's healthcare regarding Title X funds in the Governor's proposed budget. The record will show these three things are what the Legislature spent half their time on. My hope is renewed in you senators of the 106th Nebraska State Legislature. The first six days of this session cautiously seemed to me to be a sea change from the partisan acrimony that typified the previous Legislature. The Committee on Committees process proceeded in what appeared to me to be an above-board fashion. There were no fraught motions to overrule the Chair on day one, nor attacks on our traditional nonpartisan methods of administering Legislature leadership roles. Today, while our federal government remains shuttered amid partisan incompetency, you all have the opportunity to demonstrate true leadership and serve as an example of how Nebraskans can join together to overcome whatever challenges life may throw at our state. When I reviewed the current package of proposed rules

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changes, I saw a number of invitations to hop right back in to the acrimonious climate. There are proposed changes here that I would expect any high school student who has participated in a deliberative parliamentary body, such as Cornhuskers Boys State, to be familiar with. The rules changes are simple enough procedurally for a high school student to intellectually grasp and argue but changes those students playing government in Cornhuskers Boys State wouldn't yet possess the wisdom to fully appreciate the vast breadth these parliamentary changes can entail, how seemingly simple rules changes can erode or even destroy the legitimacy of a deliberative body. To preserve the legitimacy of the 106th Legislature, I would ask this committee to take a pass on substantive rules changes this year. Of all the proposed changes currently under your consideration, only one presents with a co-introducer. And if this committee must enact at least one rules change this session that co-introduced proposal might be the one to consider and bring before the body as a whole. Senators, there will be many contentious issues that you and your colleagues will have to struggle through in the next two years. And my family commits to keep all of you in our prayers and our intentions and in our meditations going forward. There are real people in this state who are hurting that you can help. There are real infrastructure problems that demand action that you can address and we the people of Nebraska expect and depend upon you to do your constitutional duty of governing as a coequal branch of government. Please do not make your job harder by introducing landmines for the body to navigate around in the form of ill-conceived or wrongheaded parliamentary changes. Thank you for your time and consideration, and I would yield to any questions from the committee.

CRAWFORD: Thank you, Mr. Woody. Are there any questions? Thank you. And we did receive your written testimony, but since you've given the same as verbal testimony, I'll allow that to count as your testimony.

JAMES WOODY: Thank you, ma'am.

CRAWFORD: Thank you. All right. Anyone else who wishes to speak in a neutral capacity? We have no letters for the record specific to this proposal, so we will move on to the next rule change, rule proposal number 3. Senator Vargas. Welcome

VARGAS: Thank you very much, Chairwoman, members of the committee. I'm going to try to be brief with this. I'm very proud to be the Vice Chair of the Legislative Planning Committee and I've introduced this bill on behalf of the Planning Committee report and recommendations,

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which I'll be passing out right now. So some of you know the Legislative Planning Committee is a committee that was enacted around 2009, as a hive mind of Senator Harms and several others, with the intent of trying to find a place in, in, in our work collectively to focus on long-term planning, looking at, at the way that data can inform the larger, the bigger things that we need to work on as a body. And so I've been proud these last few years to work with Senator Schumacher and others to figure out what are the right data points, what are the things that we should be working on as a body. And there's a lot of different recommendations that came out of this. One that is in front of you that I want to focus on is specific to a rules change regarding the committee priority designation for the Legislative Planning Committee. So if you see, a Planning Committee priority bill authority. So for a little background, this-- this same one committee priority designation for the Planning Committee was brought last year, well, two years ago, in 2017, when we took up the rules, and came out of the committee and was set to come out to the body. But as people referenced, there was a little bit more that happened two years ago and so we had a bigger debate about different rules, and so that fell to the wayside and we didn't get to, to prioritize something like this. So I'm bringing to you this priority bill designation that was brought by the previous Planning Committee and is now being brought by the existing Planning Committee as a recommendation to have the authority to have one priority designation for the Planning Committee so that we can continue to usher in change and recommendations from our committee in a way that's gonna help the body and help other members of the Legislature.

CRAWFORD: Thank you. Questions for Senator Vargas? Yes, Senator Scheer.

SCHEER: Thank you, Senator Crawford. Thank you, Senator Vargas. And I, too, am a member of the committee so I'm not trying to diminish the role or the importance. But there are a couple things that I think distinguish this committee versus other committees that have a priority bill. This is an appointed committee, as the others, but our leadership of that committee is not elected by the floor. And to me, more importantly, this committee does not entertain any hearings on any bills. And so by providing a priority bill to this, committees hear bills. The standing committees hear bills so they will be able to take one of those bills or a combination of those bills and determine that they are of importance. This committee does not hear any bills and so, consequently, for them to unilaterally pick out one bill

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somewhere that has been introduced, and the Planning Committee is a very, very broad topic area. My concern is that we are providing a-- an additional priority bill. And from my perspective, times become very, very tight once those are introduced. And the fact that there are no hearings for that committee to really have any in-depth discussion with that introducer to know exactly what the introducer's intent, whether expressed or implied, might be perhaps is, is, is somewhat of a stretch. If they were hearing bills and were taking one of those bills, which I think is normal for other committees, as a committee bill, to me that would be different. But the structure of how that-- this committee is, is put together and how it operates is substantially different than any of the other standing committees. So I will give you opportunity to respond.

VARGAS: I was going to ask a question. Thank you, Speaker. Yeah, I mean that's an honest conversation we had in the committee. I think, I think there's a little bit of a balance here, I think somewhat similar to Performance Audit. You know, we, we were, we were trying to gauge what was really the original intention of this legislation on this specific committee, and it was really to do long-term planning and have the ability to, to make substantive changes that are helping our body. And I think we've gotten to this place over the last several years where we've really been collecting the data and identifying these really big root causes. But being able to then push forward legislation that-- and the balance here is the people and the members on the committee, including yourself, including Appropriations Chair, the Chairman of the Executive Board, that there are members on the committee that provide enough of a balance so that something that would go to the committee would be of really importance. It wouldn't come out of the committee unless it was important enough to then come out. To try to address some of the questions and concerns about it being not a standing committee and, you know, things getting referenced to it. And to my knowledge, we really tried to mirror this not having two priority designations but to Performance Audit in that-- you know, we're not necessarily opening ourselves up to then having people come and then having bills referenced there, but more so at times there are bills within the subject matter, and this being a very broad subject matter, that rise to the occasion of the consensus of the people on the committee to push something forward. A good example might be you know, you know last year there was a bill that went to Appropriations that Senator Stinner brought that looked at basically fiscal health. It was a bit of like a stress test fiscal health, looking at federal grant inventory. That bill could have been

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a priority bill in my, my view for Planning because it had so much to do with longer term fiscal health of our body, maybe not necessarily, it could have gone into Appropriations. It, it, it could have been. But this is a bit of an uncharted terri-- territory in terms of what we've been doing. But the recommendation of the committee from before I was on there and this recommendation is that we move forward with the priority designation so that we can continue to do the work of the body.

CRAWFORD: Thank you.

SCHEER: Thank you.

CRAWFORD: Any other questions? Thank you for your testimony. We'll now hear from anyone who wishes to testify in support, or proponent testimony. Anyone wishing to testify in opposition to the rule proposal? Is there anyone wishing to testify in a neutral capacity, this rule proposal? Thank you. Don't have any closing comments? OK. So we'll move on to the next rule proposal, rule proposal 4, also Senator Vargas.

VARGAS: Hello again, members of the committee, Chairwoman. Thank you very much. So I'm gonna try to provide a little bit of a description on where this came out of. You know, last year I had the benefit of working on several different bills in the area of juvenile justice. And you know one, one thing that came out of this in a lot of different stakeholders I engaged with was that this term "disproportionate minority contact" continued to come up, just assessing how legislation is having an impact, usually a detrimental negative impact, on a, on a subset or group of individuals usually from a specific racial or ethnic subgroup, usually looking at African-Americans or Latinos or some other marginalized subgroup. And so a group of stakeholders now, we started looking at what can be done proactively, not necessarily stating that there needs to be a policy determination, but what can be done proactively where we're informing ourselves and that lawmakers have the tools necessary to make informed decisions. And so doing some research, one of these areas is what we call racial impact statement. So first is this is something that is not, not new. I think it's new to us, but it's something that's been happening across the country, both in terms of passing legislation and being introduced. Probably the pioneer actually is our neighbor to the east in Iowa. In 2008, they passed racial impact statements. Essentially, they saw that there was a growing concern in their corrections and prison population that it was disproportionately

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affecting African-Americans and Latinos. And there's a need to sort of step away from that being an additional piece of testimony, something to then add to then as fodder, but more being a fact of the matter that there are, there are things that we do that do affect certain subgroups. And so they created these racial impact statements that accompanies certain pieces of legislation. And just like a fiscal note, where we are assessing the impact of the legislation in terms of the cost and, and, and what other impacts it might have fiscally, this is basically assessing the impact it's gonna have on a subpopulation. And so some of the metrics here I think are-- I just want to call some of them out because they're fairly straightforward, have to do with-- you know, percentage of populations that are affected, number of cases in either juvenile or corrections that are affected. And we tried to be very specific enough where there is information that would be included in these racial impact statements but not so broad where it would not-- it would get a little out of hand. So a lot of this was guided by that. So Iowa is one example that have passed these racial impact statements, but it's since passed in Connecticut and Oregon and New Jersey very recently, and these types of statements have also been introduced in Arkansas, Florida, Mississippi, and Wisconsin. The other reason why we're proposing it as a rule change rather than a legislative change, as some of you may be asking, is this is not saying that a legislation is right or wrong. This is saying that we need to take into account the impact it's gonna have on a specific subgroup, a subgroup that's usually marginalized or is detrimentally impacted in the area of corrections or juvenile justice. And so, you know, truthfully I think as a body, putting this in the rules would, and you're gonna see in the language this gives deference to the Referencing Committee to then make the designation that it would, it would warrant it if it is within the subject matter. In addition, there are some guidance in terms of subject matter on when it would deem to have a racial impact statement. If there are other, like another Chairperson that-- or that wants to then have a racial impact and something outside of this, they can then also request it. But we wanted to make sure that this had some living deference into the Referencing Committee, because as the Executive Board, they represent all different factions of the state. And I think it's a good, good group of individuals to then make these determinations. The other reason why we put this in the rules is because we believe that this is something that should be a practice of habit. Fiscal notes are not controversial in nature. I don't think data around how this might-- a piece of legislation for juvenile justice might impact African-American youth. It should be controversial [INAUDIBLE] as long

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as we're just providing data. And so the, the really ultimate goal of this is to make sure we are as informed as possible, poly-- policymakers are informed with the data they need to make decisions, and that we are really trying to work to address some of the uncomfortable nature of the populations that are more detrimentally impacted by the changes we're making. So I think this is an incredible step into taking away some of what can be deemed controversial. Again, this is very common. If you look at DMC, disproportionate minority contact, it is language that is put in other bills of this, but this is making it more routine and more standardized. So with that, I wanted to see if anybody had any questions and thoughts.

CRAWFORD: Anyone have questions? Yes, Senator Scheer.

SCHEER: Not really a question, just more of a logistical--

VARGAS: Um-hum.

SCHEER: Thank you, Senator Crawford. If, if the bill is introduced and it has some impact on one of subsets that you've discussed and it then goes to Referencing and Referencing determines that it needs this impact, maybe not so much in a long session but certainly in a short session when you have a limit of 60 days and hearing structure is much shorter time. It's not that it's not important, I'm not--

VARGAS: Of course.

SCHEER: --trying to minimize that, but it, it still gets down to a question of time and how quickly you suspect that these things can be facilitated and back to a committee so that they can adequately have a hearing with the information available to them.

VARGAS: Yeah, I mean it is a concern. I think in the past we've tried to put time lines on fiscal notes and we've seen that-- where that's gotten us. So there's not a time line here necessarily. But looking at just the number of bills that come through with that content, it is gonna be a number of bills. It's not obviously all, all the bills that we see introduced would, would be referenced in this. There is leeway in terms of the ability for the Legislative Research Office to then basically employ or find other resources to then support. So a way that other states have gotten around this is they've utilized, let's say, like Legislative Research has basically found somebody that has extra capacity to then do more research in this arena. They've contracted with a group, a research group that is academic in nature

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and is subject matter expert in terms of racial and diversity inclusion. And so they have more of the data. They work with some of their higher education institutions, too, that, that are actually part of the state government and they work with or contract with them so that they can make sure the load isn't too much but then also there is somebody that is more of a, let's say, not a subject matter expert but has some more experience to then help support cases where they may not have enough information or resources.

SCHEER: And I don't disagree with that. But not all bills, as I recall last year, even in our short session Judiciary had roughly 110-plus bills. And even if-- certainly all of them would not be forced to have this type of, of--

VARGAS: Um-hum.

SCHEER: --evaluation. Even if a third of them did, you're still talking over 35 bills. Again, that, that time element, there may be other ways to look at this and,--

VARGAS: Um-hum.

SCHEER: --and try to develop it. And maybe there are other entities out there that would have excess capacity that could do what we want them to do. But that-- that's my biggest concern, is putting the Judiciary Committee even farther behind the eightball than they already would be based on the load that they currently have been receiving over the last, at least the six years that I've been here, that the numbers are accelerating, they're not diminishing. And a lot of the bills that they would hear, maybe not the majority but a good number of them would fall within the parameters of this.

CRAWFORD: Other questions? Yes, Senator.

LATHROP: Can you give me an example? So I'm thinking because of corrections we've-- some bill gets introduced that deals with corrections. There is identifiable populations in--

VARGAS: Yep.

LATHROP: --the Department of Corrections, people that are incarcerated. We're gonna change something over there. Do we do them when it has a, a different impact from one group to the next? So if you have what amounts to policy, and I can't think of an example right now, but because there may be more African-Americans incarcerated than

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Caucasians or whatever those groups are, do they need to break that down if it's a racially neutral policy? Because this isn't--

VARGAS: Yeah.

LATHROP: --we're not, we're not talking about stuff that's overtly not racially neutral. It has an, it has an impact or a consequence.

VARGAS: Yeah. So--

LATHROP: So can you give us an example, if you don't mind?

VARGAS: Yeah, that's a good question. Probably frame it as, let's say there's a, I don't know, a criminal offense. Maybe not corrections, right? Like say it's something a little bit more not as controversial, a criminal offense and the offense that's changed, the class of the offense that's potentially changed, and the Referencing Committee deemed that this was something that warranted to go and have a racial impact statement. Legislative Research and/or somebody that we are working with or contracting with for support would then do the research to then see in other states what would have been the impact of changing that have sort of this [INAUDIBLE] sort of similar legislative change in, in class or felony, misdemeanor, what have you, and then look at what data exists in terms of what changes we've seen. That would be one example of some of the data points we would try to look at. Rather than trying to anticipate which ones are gonna be the most controversial, it's making it more standard. There's always an impact to, to, to everybody. But in this instance, when we're looking at juvenile justice and criminal justice, there's just overwhelming data to support there is a detrimental impact in certain subgroups. So let's try to gear in and quantify the most important pieces of information in this arena, so.

LATHROP: So what's the standard going to be for Referencing Committee? If-- how do they know which ones to send over for a racial impact statement?

VARGAS: Yeah. I would say it probably lives more in sort of-- so given that we have these conversations in Executive Board constantly and even today, it's probably less of a science, more of some, some sort of standards, standards in terms of the content, either the, the specific content having to do with, like I said, corrections, juvenile justice, certain offenses. And then there might be certain things in

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terms of the process of what might be-- might-- are being changed and we'd give guidance.

LATHROP: So we have a great example, I think,--

VARGAS: Um-hum.

LATHROP: --with the federal sentencing guidelines that had a distinction between cocaine and crack. Am I--

VARGAS: Yeah.

LATHROP: --do I have that right, where they sentence crack more severely than cocaine?

VARGAS: Yep.

LATHROP: I think that was part of the recent reforms, but--

VARGAS: Um-hum.

LATHROP: --that had a dis-- a different impact because the African community was more likely to be using one type of that drug versus another and it's--

VARGAS: Correct.

LATHROP: --essentially the same thing. We have a bill coming in to Judiciary Committee on strangulation. So right now it's against the law to suffocate somebody. Apparently, we haven't figured out that it should be against the law to strangle somebody. And that's gonna come to our committee. So would that be sent over for an assessment?

VARGAS: So the answer is it depends on the Referencing Committee. So if there is-- so I would say, yes, because if, if it's creating an offense. But, let's say it is, but there is no data. And given some of the parameters of the data points, there's really no data to support that there is an impact, then that would probably be the report, just like a fiscal, you know, report. Sometimes there really is no impact whatsoever. Sometimes it's a very small amount of information we get. And if it wasn't referenced and somebody believed it should be and they talk to you, as Chairman, that's something that you can request.

CRAWFORD: All right.

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LATHROP: OK. Thanks.

CRAWFORD: Other questions?

VARGAS: Yeah, of course.

CRAWFORD: I have a question. Is this language taken-- is this language identical to what Iowa uses?

VARGAS: It's similar. It's not identical. And the reason why is, so the way Iowa did it, it was a little bit different, different states are doing different things. So some are doing it in terms of legislation. Some are doing it in terms of rules changes. Some are doing it across all different types of content, saying it's just standardized like a fiscal note. Some are just doing it within-- you know, criminal justice related bills or corrections types of bills, which is what we wanted and focused it on here. But in terms of the content and the process, it is, it is similar--

CRAWFORD: Right.

VARGAS: --to Iowa in terms of that.

CRAWFORD: Thank you. Any other questions? Yes, Senator Erdman.

ERDMAN: Thank you, Senator Crawford. Thank you, Senator Vargas. When I received this from Senator Crawford a couple of days ago, I spent several times reading through this,--

VARGAS: Um-hum.

ERDMAN: --trying to figure this out. And hearing your testimony today, the question that I have is, A through E explains what should be involved in the impact statement. Is that correct?

VARGAS: Um-hum. Yeah.

ERDMAN: All right. So when the impact statement comes, if it identifies something that we should be aware of, how do we handle that then? What do we do with that? Do we just move forward and say that we can't do this because the impact is too great for this specific group? Or how-- what do we do with it then?

VARGAS: Yeah.

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ERDMAN: In other words, what's the information valuable for when we go forward?

VARGAS: So I think you kind of hit it on-- you kind, you kind of touched upon it. That information is then gonna come to the committee and it's gonna be attached to the bill and, to the extent to which it informs committee members on the decisions they're making, that's really left up to the committee. I think it's important data, objective data, to have. And I think that's one of the reasons why it's being introduced in different states and it's-- they're seeing success is because it shouldn't be hard to talk about how changes we're making are detrimentally impacting certain subgroups. It really shouldn't.

ERDMAN: So then we have separate laws for different subsets of our, of our population?

VARGAS: Not separate laws, but everything we do has an impact. And so making sure that we're informed about when there's overwhelming data to support--

ERDMAN: Right.

VARGAS: --that there are specific subgroups affected by something we're doing, shouldn't we be informed of that data? Just like we're informed about whether or not something is the-- we can afford it or the impact it's actually gonna have on our general budget. We do that all the time.

ERDMAN: I understand.

VARGAS: Yeah.

CRAWFORD: Any other questions? Thank you for your testimony.

VARGAS: Thank you very much.

CRAWFORD: We'll now hear testimony from proponents of this rule change. Thank you. Welcome.

SPIKE EICKHOLT: Good afternoon, Madam Chair, members of the Rules Committee. My name is Spike Eickholt, S-p-i-k-e, last name is spelled E-i-c-k-h-o-l-t, appearing as a registered lobbyist on behalf of the ACLU of Nebraska in support of this proposed rule change. I want to thank Senator Vargas for introducing this proposed rule change. He

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actually did an interim study, LR458, that we also want to thank him for introducing as well. That interim study did not have a hearing, but a number of us worked over the interim on this issue. I dropped off a copy of my letter testimony yesterday, along with a handout which I think is a Law Review article which explains what some of the other states have done with respect to racial impact statements. Senator Vargas explained it very well. I'm not gonna repeat anything he said. But this proposed rule change is modeled probably most closely on what Iowa did and what Iowa did in 2008. And part of the motivation, as Senator Vargas explained, part of the reason why Iowa developed, they call it a minority impact statement, is because they had a prison population that at the time led the nation in racial disparities. They wanted to see what was being done, at least on the front end, to cause or contribute to this disparity. You've heard these statistics. You've heard people like me tell you this, that in the criminal law and juvenile justice there's a clear disparate impact on minorities. And when it comes to criminal law, people of color are more likely to be stopped by the police. They're more likely to be searched. They're more likely to be cited. They're more likely to be arrested. They're more likely to be held on bond. They're more likely to be charged. They're more likely to get a sentence that results in incarceration. That flows one way. It naturally follows that any law that you pass or modify is going to impact that, positively or negatively. And like Iowa, other states have adopted this, I guess, front way or proactive way to look at this. A couple of things I'll just add to what Senator Vargas said. In 2009, when Iowa first began their minority impact statement, they did ten minority impact statements for that year. It was discretionary within what they call their legislative service agencies, which seemingly looks like our Legislative Research Division. Westin Miller is gonna testify later. He's actually got photocopies of some minority impact statements that Iowa does. And they're sometimes one or two pages. They look very similar and they seem to be part of the fiscal note where some sort of estimation about what this proposed bill will do as far as the prison population and when it comes to minority and disabled people. To kind of ask or answer maybe some questions that you had, if I can, Senator Lathrop, you asked about the suffocation, strangulation law. One way that could be done is the Department of Corrections tracks who goes to prison for what types of offenses. If you know that, and I'm just gonna guess, 25 people annually or 20 people annually serve-- are sentenced to prison for a strangulation offense and you're going to broaden that crime, it would be possible to infer that that many more people might go. Department of Corrections not only tracks who's

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...serving what sentence, but the racial makeup, so you at least have a way of measuring that. To what Senator Erdman says, what do you do with that? I mean that's ultimately gonna be case by case or bill by bill what you do with that, but at least you have some sort of insight ahead before you act on a bill or senators act on a bill about what this might do, because we already know the problem, if you will, persists and exists. So anything that you do on the front end is gonna have an impact, at least having maybe similar to a fiscal note, at least some sort of appreciation in the fiscal context of what this bill might cost a political subdivision, and what it might cost the state, here you just have some sort of idea of what this bill might do on a racial impact to a disparate group. The bill itself or the rule itself provides, at least as proposed, that a-- if a bill proposes a change in the criminal law, then the Referencing Committee shall direct that a racial impact statement is directed. And then it's discretionary for other subjects of law. If, like Speaker Scheer said, that's just a lot of bills and the turnaround time is tight, a lot of bills go to Judiciary. They're already set for hearing next week. Perhaps if the committee was more amenable, and I don't mean to suggest this because I know Senator Vargas introduced this as it is, but it could always be discretionary, at least first, to start slow to see how things go. The process that we envision is similar to the Fiscal Office. The Legislative Research gets this request. They can send-- request information to, and the rule explicitly proposes, to other agencies: the Department of Corrections, the university, advocacy groups and that sort of thing. Collect this information and then distill it and summarize it in a report to the Legislature, like the Fiscal Office does. And that's what we envisioned. Again, I think Senator Vargas explained it very well. I'm not gonna restate anything he did. You have my written testimony. And we would urge the committee to advance the rule change.

CRAWFORD: Thank you. Any questions for the testifier? Yes, Senator Lathrop.

LATHROP: I am curious about this. If we, if we change-- if we had a bill in front of Judiciary Committee that took use of a firearm in the commission of a felony to a mandatory ten years, OK, that, that would have a disparate impact, would it not, or in all likelihood?

SPIKE EICKHOLT: I-- in all likely it would. And--

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LATHROP: You, like we don't have the statistics in front of us right now, but my guess is that there would be more African-American people sentenced to a mandatory ten.

SPIKE EICKHOLT: I would guess that's probably accurate.

LATHROP: OK.

SPIKE EICKHOLT: And the way to-- go ahead.

LATHROP: But, but what are we after? If we're mad at people that are using guns in the commission of a felony, are we, are we trying to find out where it is more or, rather, less obvious? If we're changing, if we're changing some juvenile issue that affects a culture, and I'm not gonna, I'm not gonna try to develop a hypothetical because I can't right now, but some change in the law that would affect the cultural behavior of different minority groups, are we looking for-- would we do it an impact statement for both of those situations or just the one that might be less obvious?

SPIKE EICKHOLT: I think you probably want to do it for every situation. Even if senators understand and appreciate that if we pass this bill it's going to have an impact against minorities disproportionately, arguably, senators ought to know that. Perhaps the crime is so severe we can't excuse it. It's unfortunate. We can't-- we have to do this as a matter of public policy. Additionally, you are looking for the more less clear. You gave the example of federal sentencing guidelines. That's a really non-- it's a very subtle difference and it came down to, and I'll just talk technically, you've prosecuted based on the amount of cocaine you have and it's done by raw weight. They had the definition slightly different that says if you have a substance that weighs something and that substance tests positive for the presence of cocaine, not that everything you have is cocaine but if it tests positive for cocaine and there's some cocaine in it, you're guilty of X and you're punished by Y years. You can have a lot of pure powder cocaine, like more white people typically did, and you're not gonna get up to that level. But you could have a lot of crack that has very, relatively small amounts of cocaine, but its raw weight gets you to that level. That was what the problem was at the federal level. Broadly stated, that was the issue.

LATHROP: Right.

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SPIKE EICKHOLT: No one knew going in.

LATHROP: Good example.

SPIKE EICKHOLT: No one appreciated it, but that's the impact. And if you're gonna-- if you did that and didn't realize it at the time but you're gonna amend those statutes, at least you know. And that's what we're trying to capture in some respects, just have an informed decision that appreciates race, just like you appreciate cost in a sense.

CRAWFORD: Other questions? I'm just trying to imagine with that bill if an impact statement would have known that or caught that?

SPIKE EICKHOLT: It's tough to go back. Perhaps. It depends on who you consult. You know, I think that a lot of people, we didn't repeat that for methamphetamine in this state, for instance. The definition is different. That's, that's notable, in my opinion. But I don't know. It's tough to-- it depends who you contact. And you know, many of the front-line people saw that probably right away and they may have testified and said if you do this it doesn't matter. And some things are lost sometimes. Sometimes they mean more if they come from the Fiscal Office, right, or something internal from maybe somewhere else.

CRAWFORD: Thank you. Any other questions? Thank you for your testimony. Any other proponent testimony for this rule change?

WESTIN MILLER: Senator Crawford, members of the committee, my name is Westin Miller, W-e-s-t-i-n M-i-l-l-e-r. I'm the policy and communications associate for Civic Nebraska. We're a nonpartisan, nonprofit that works on elections and voting rights. I wanted to quickly voice our support for Senator Vargas' proposed change, specifically because of the clarity it could provide as the Legislature discusses policy that could potentially restrict or expand voting rights. We think it's important to take this step in the direction of evidence-based policymaking. It also helps to encourage public trust in the legislative process, two things that we as an organization care very much about. When it comes to felon disenfranchisement, I think it's undeniable that some election policies do have a disparate impact on minorities and we believe this information should be readily available to all members of the Legislature, to Senator Erdman's point, whether or not they choose to act on it. We think the information is valuable. For example, in Nebraska 5.1 percent of the population identifies as black or

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African-American. But that same population makes up 20.15 percent of people currently unable to vote due to a felony conviction. Now we are not at all saying this should be the only factor you use when you make your decision, but it's an incredibly important fact to know as you make your decision. And right now there's simply not an objective resource providing that information. We understand that no law can be reduced to a single impact or to a single factor. But it is our belief that evidence-based policymaking can only happen when the Legislature-- when the legislators are made aware of all of the relevant factors. And so to that end, we think this fills a really important need. Secondly, as Senator Vargas mentioned, while this conversation is new in Nebraska, Iowa has been producing these statements since 2009. Iowa's Legislative Services Agency drafts racial impact statements for any bill. Other criteria are bills that affect sentencing and parole policies. The statements are drafted using data on prison population, arrests, convictions, and then the sentences. Those are all broken down by race, and that's what I've distributed is a few examples of those, of those statements. So in addition to being geographically close, Iowa's racial demographics are also very, very similar to Nebraska, so it's kind of a useful example. They also have ten years of data on the effects these statements actually have on the success or failure of legislation itself. I think this data is really important because it's a reminder that just because these statements exist, it doesn't necessarily compel action one way or another on the legislation. It's just useful information to have. The Des Moines Register said that these racial impact statements have had a, quote, modest effect on Iowa legislation. And we did some digging and the data that definitely supports that evaluation. They did a review of 61 racial impact statements since 2009 and it shows that, of the 29 bills shown to have a disproportionate negative effect on minorities, 6 of them passed both legislative chambers and became law. Of the bills that were rated as having no effect or having a positive effect on minority incarceration, 14 out of 35 became law. Civic Nebraska wants to support policies that encourage evidence-based policymaking and we want to encourage public trust in the legislative process. We believe that Senator Vargas' proposal would accomplish both of those goals and it would help the Legislature make more informed choices about election law and voting rights. So we encourage you to make this change. And thanks for your time and happy to answer any questions.

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CRAWFORD: OK. Thank you. Could I have you, for the record, just state and spell your name?

WESTIN MILLER: Yes. Westin Miller. It's W-e-s-t-i-n M-i-l-l-e-r.

CRAWFORD: Thank you.

WESTIN MILLER: Yeah.

CRAWFORD: Questions for the testifier? Thank you for your testimony.

WESTIN MILLER: Um-hum. Thanks.

CRAWFORD: Welcome.

JULIET SUMMERS: Good afternoon, Madam Chair, members of the committee. My name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s. I'm here representing Voices for Children in Nebraska in support of the proposed rule change. You'll have my written testimony in front of you so I won't read directly off of it. Also, I don't want to be redundant with other points that have been covered. But Voices for Children is here in support of this proposed rule change as it pertains to the juvenile justice system and bills that would pass through the Legislature related to juvenile justice. There is, as you've heard, plenty of data. The data is clear that our laws and policies disproportionately affect minority youth, particularly African-American youth and Native American youth in Nebraska. I've given you-- there's a couple charts on my testimony and then I've given you each a separate page with some data points, as local as we can make them to your district, because we also know the data shows us that-- you know, policies can have disparate effects on different populations, depending on where you are in the state and how things look in your hometown. I want to highlight specifically not just that this could be useful not just for, for bills or legislation that might have a negative disparate impact but also legislation that is aimed in an idealistic way at addressing disproportionate minority contact. Because one thing we've really seen the data is showing us over the past several years in juvenile justice is that reforms aimed at improving the system for kids and, in fact, in the hopes of reducing disproportionate minority contact, just haven't had that particular effect that, that we've been hoping for. So on the second page of my testimony there's an example, a chart relating to detention admissions. Youth were being sent to secure detention, which is essentially a short-term jail-like setting for kids in the juvenile

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justice system. We've overall, over the past several years, our detention admissions have dramatically decreased because of reforms that the Legislature has implemented and efforts that judges and advocates have made on the ground. But what you see is that those, those overall numbers have decreased, that's-- it's, it's predominantly a decrease for, for white youth admissions, and that youth of color now represent a greater disproportionate share of our total detention admissions statewide. So we absolutely support the idea that more information is better when you're considering these topics and that the Legislature having this information coming from within your own house, from Legislative Research, would be very useful to have as part of the conversation when you're considering proposals that could go one way or the other for all the kids in our state. And I would just highlight that one of the most important pieces we see under this proposed rule change is that these racial impact statements would include, quote, evidence of consultation of representatives of people of a designated minority in cases where policy or program has an identifiable impact on minority persons in this state. And I think that that-- receiving input from disproportionately affected communities, leaders of those communities, would, would be a solution to some of what we've seen in recent years where really well-intended efforts are making change for kids but it's not being felt equitably across the state. So with that, I'd like to thank Senator Vargas for bringing this proposed change and this committee for your consideration.

CRAWFORD: Thank you. Any questions for the testifier? Thank you for your testimony.

JULIET SUMMERS: Thank you.

CRAWFORD: Any other testimony in support-- proponent testimony for this rule change? Any opponent testimony? Any testimony in a neutral capacity? All right. Any closing?

VARGAS: Thank you, everybody. I just want to-- I want to thank you for listening to this. I think one of the conclusions I arrived at with this is that more information is always better. Standardizing the types of information that we receive is always better. In this instance, there's just overwhelming data to support there are groups that are detrimentally impacted. However, there are ways to then hone in on the right piece of data and to make sure that we're all making informed decisions. And ultimately this is not changing the policy recommendations in any way. This is just saying now you have more at

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your disposal so that we can make as informed decisions as possible because the basic premise of this is that policies have unintended consequences. If we don't have the data in front of us before making these policy changes, we can be doing things that are very hard to reverse, as we know. So with that, I just want to thank the committee members for listening and I, I ask that you advance this rule to the Legislature.

CRAWFORD: Thank you. We also received letters for the record from ACLU Nebraska in support and Nebraska Appleseed in support. That concludes our hearing on rule proposal 4. We'll now move to rule proposal 5. Senator Matt Hansen. Welcome.

M. HANSEN: Thank you. Thank you, Senator Crawford-- Chair Crawford and fellow members of the Rules Committee. 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 bringing two rules to get-- proposals here today, will present them in sequence, and they're functionally approaching the same issue, albeit in separate sections. So the proposals came as two separate rules proposals. And so the background behind this, and this is largely for the public, but is, as you know, is we as a Legislature elect members of Committee on Committees and members of our Executive Board by geographic area, which we often refer to as the Congressional district caucus. As you could see in the existing language in Rule 3, Section 2, the specific legislative districts that correspond to each caucus are all spelled out. And for specifically in Rule 3, Section 2, we elect 12 com-- 12 committee members to Committee on Committees, 4 from each of the three Congressional district caucuses. So the issue that I'm attempting to address is what happens when it takes-- there is a stalemate or some other resolution in a Congressional district to elect membership to either Committee on Committees, Exec Board, and Rule 5, specifically Committee on Committees. As some of us know, that is something that is-- that has happened. It has taken more than one ballot to resolve membership on Exec Board and Committee on Committees, and which led to the discussion of what happens then if the, if the committee-- if the Congressional district caucus is unable to come to a decision? And so my intent here with rules 5 and 6 are to write down my rules as I under-- write down the rules as I understood them. So they're not necessarily intended to be rules changes but more clarity of the existing norms and traditions in rules. Specifically with Rule 5, you could see we elect the 12 members of-- 13 members to Committee on Committees, the chair elected at large on the floor, and the 4 members from each of the three Congressional districts. And then

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I would add further language confirming that the Committee on Committees members need to be filled by a majority vote of all members of their respective Congressional district caucus for which positions represent, and I included subject to approval of the Legislature. I did not include all of Rule 3, Section 2, in my proposal. But if you look at the current language of Rule 3, Section 2, and you-- so I'm on page 14 of the most recent Rule Book, specifically on Rule 3, Section 2, section (d) it mentions already that a vacancy within the Committee on Committees shall be filled by a meeting of the caucus established pursuant to Rule 3, Section 2(a), which is the section I'm amending. So that is my understanding, is the principle that we have clarified when filling a vacancy is that you need the majority of the caucus who's filling Committee on Committees. And so I would just like to clarify that if that's the procedure for when filling a vacancy, you need a majority of support of the Committee on Committees to fill the vacancy, it should also be the principle that when initially electing any member to serve on Committee on Committees representing one of our Congressional district caucuses has the majority support of their Congressional district caucus.

CRAWFORD: Thank you. Any questions? Yes, Speaker Scheer.

SCHEER: Thank you, Senator Crawford. Senator Hansen, you and I are both members of the caucus that both experienced this.

M. HANSEN: Um-hum.

SCHEER: And what you have presented is essentially, in fact, what-- the procedures that we were utilizing. However, you've acknowledged the problem that there was a stalemate within the committee, no one receiving a majority vote. This doesn't help. You know, what I, I think if we're going to look at this we need to determine some process that helps the body or the caucuses get past the impasse--

M. HANSEN: Um-hum.

SCHEER: --that was presented. All this is really doing is somewhat regurgitating common practice. And that's OK but knowing that the problem, the potential, not only exists but it has happened, it would, it would-- my thought would be it should not just simply state the obvious of what people are utilizing in all the caucuses but some resolution to the problem that appeared this year and potentially, at least in two of the caucuses that have an even number,--

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M. HANSEN: Um-hum.

SCHEER: --could happen again.

CRAWFORD: Thank you. You want to respond to that question before another question?

M. HANSEN: No, I appreciate the opportunity to respond. I appreciate your perspective, Speaker Scheer. As you acknowledged, we're in the same Congressional district caucus. We attended the same meetings. It was my intent to be a slight regurgitation of current standard. I was just surprised at when we actually had a, had a little bit of an impasse and had a little time, when we looked to the Rule Book how little of our Congressional district caucus procedures were actually written down anywhere. And so that's what I intended this to be, is really just like a first step of, of-- we-- this is the way we've been doing it, we just haven't written it down. Maybe it's time to write it down. In terms of what the Rules Committee would like to do forward, I would be happy to have further discussions if there's other ideas.

SCHEER: And, and I'm, I'm not chastising. We both were aware of the problem.

M. HANSEN: Um-hum.

SCHEER: And I was hoping that you had come up with some mastermind process that would have facilitated some type of resolution to those problems as they come forward.

CRAWFORD: Thank you. Other questions?

M. HANSEN: Appreciate that.

CRAWFORD: Senator Lathrop.

LATHROP: I do. And you know I talked to you about this and I-- I'm glad. You know I like the idea of putting it into the rules. But the part that-- that's causing me a little concern at the moment is the last part that says, subject to the approval of the Legislature.

M. HANSEN: Sure.

LATHROP: And I'll take you back to Committee on Committees. We were in this room. And the 3rd was caught up in a stalemate.

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M. HANSEN: Um-hum.

LATHROP: And they wanted to have the entire Committee on Committees break the stalemate. And my response to that is I think that's up to you four people or your, your caucus. And I don't have anything to say, shouldn't in my judgment, if the rules are the way I'd like to see them, which I think they are currently.

M. HANSEN: OK.

LATHROP: I don't have anything to say about what goes on in the 3rd because I'm often the 2nd. Adding the language "subject to approval of the Legislature," so let me ask you if this is our rule and over in the 2nd we decide to put whoever we, we chose, the four people that were serving, is it possible then that somebody could take a vote to the body with that language in there that allows the body some say in who's going to serve on Committee on Committees?

M. HANSEN: I think that's a little bit-- I'll answer your question in two parts. So the first, the specific language that included the "subject to the approval of the Legislature" was specifically for Committee on Committees, was I had written the rules, my two rules proposals in the other order, and that language is existing language in referencing the Executive Board. So it was new to the Committee on Committees section but it was largely a paraphrase of some existing language on Executive Board. And we can include whether or not we want to-- whether or not it's a substantive change or not. I did not intend it as a substantive change but whether or not it actually means something substantive, we can-- we could change that. I'd be happy to change it.

LATHROP: OK.

M. HANSEN: Go to your late-- your second, a larger question, so that's how we got-- that's how I got-- brought this language in front of the committee. Going into your larger question of what role does the Legislature, the full body of the Legislature, have to make decisions upon Committee on Committees, I think that's something that's probably worth clarifying, because it's my understanding that as a Legislature-- you know, we do. If you read the original portion of the rule, it says the Legislature shall elect a Committee on Committees and then does not prescribe procedures. So from there I think that would be kind of similar.

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LATHROP: So the, the amendment that you're offering would do that right up to the point where we say "subject to the approval of the Legislature." Because I don't think-- this is my thought.

M. HANSEN: Sure.

LATHROP: I don't think it's a subject for the entire legislative body. I think the 3rd needs to work their thing out. The 2nd needs to work their out. And the 1st needs to work their Committee on Committees appointments. There are political-- I mean your caucus was a perfect example of it. You came to a political solution.

M. HANSEN: Um-hum.

LATHROP: Right? It worked. I just-- I want to be careful that we don't amend the rules and then allow for the entire body to be involved in deciding who are the four people that are going to serve on Committee on Committees from each of the respective caucuses.

M. HANSEN: Sure. And if I may, so my intent I think is aligned with your intent and your understanding of the rules, is I do, from the, from the at-large positions or, rather, sorry, not at-large-- excuse me, from the Congressional district positions, I think those at a minimum should always have a majority vote of their members, and that was the intent of my rule. So that in the 1st Congressional District there are 16 members, you need 9 votes. But if you don't have 9 votes from the 16, you don't get it.

LATHROP: So would you agree that we should drop the "subject to the approval of the Legislature" part of your amendment, or am I misreading that?

M. HANSEN: I, I, I--

SCHEER: May I speak to the matter?

CRAWFORD: Yeah. OK.

M. HANSEN: I would have no objection to dropping that if that adds clarity. I'll leave it there.

CRAWFORD: Can I just clarify? Would your intent be that it would be unamendable, so all of these rosters come to the Legislature and we

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approve them on the first day, but I think is your intent really that you wanted to make sure that, that that cannot be amended by the body?

M. HANSEN: My intent was to reaffirm, reaffirm current practice which was that the Legislature would, on the first day, approve the report of the Congressional district caucus and, and further say that the report of the Congressional district caucus needs a majority vote of its own members.

CRAWFORD: OK.

M. HANSEN: And I would suggest you call on Speaker Scheer now.

CRAWFORD: All right. Thank you. I will. Speaker Scheer.

SCHEER: Thank you. From my perspective, Senator Lathrop, it, it-- this mirrors common practice. If you read it, it is telling you that the Committee on Committees first and foremost have to be elected by a majority of their own caucus. And then on the first day the entire body votes to seat those. And where, for example, in the case this fall when there was a problem within one of the caucuses that there was a deadlock, if we had gotten to that point in Exec, on the committee, on Executive Committee, what was at least the intent that probably would have happened, is that the 2nd and 3rd representatives would have been seated and elected by the body, so and they were elected by their caucus. But because, based on this, there was no majority vote in the 1st caucus to seat anyone, those would have been seated and we would have had to come to some resolution and then at that point the complete body would have approved the seating [INAUDIBLE].

LATHROP: Come to some resolution within your caucus.

SCHEER: Correct. Yeah, because--

LATHROP: OK. I just don't want it to turn into something that happens outside the caucus.

SCHEER: Yeah, because based on this, the first, first part of the process is they have to be approved by the majority of their caucus. So I-- and Patrick's more than welcome to pipe in. But from my view, this is, this is in writing what we are doing in practice.

CRAWFORD: Thank you. Any other questions? Thank you.

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M. HANSEN: Thank you, Senator Crawford.

CRAWFORD: We'll now accept any testimony in support of rule change 5. Any testimony in opposition to rule change 5? Any test-- neutral testimony on rule change 5? We have no letters on rule change 5. Any, any closing on rule change 5? Waiving that. All right, so we'll move on to rule change 6, also Senator Matt Hansen.

M. HANSEN: All right.

CRAWFORD: Go ahead. Yes. Welcome.

M. HANSEN: Thank you, Chairwoman Crawford and fellow members of the Rules Committee. For the record, my name is Matt Hansen, M-a-t-t H-a-n-s-e-n, representing District 26 in northeast Lincoln. Pursuant to our previous conversation, this is the similar-- same intent, just applying to a different section, specifically the six member of Executive Board-- the six members of Executive Board that were elected two from each of the three Congressional district caucuses. And this language that I've included referencing the six members of Executive Board is actually language that I have brought up earlier from, from later in the rule section. So if you look at the very bottom of page 1, which would be Rule 1, Section 1(b)(iv), it says: During session, a vacancy among the remaining six members of the Executive Board shall be filled by a majority vote of all members of the respective caucus from which the vacancy occurred, subject to the approval of the Legislature. And I just tried to copy, mirror that language to-- for when we first elect to affirm that it is you need the majority support of your caucus in order to be considered for these positions of Executive Board subject to a final approval of the Legislature.

CRAWFORD: Thank you.

M. HANSEN: And that was my [INAUDIBLE].

CRAWFORD: Any questions? Yes, Senator Scheer.

SCHEER: Just one, and perhaps for Senator Lathrop. Keep in perspective that all committee membership is voted on by the body, because as the Committee on Committees brings back all the committee assignments, it is voted on. And so what-- we, we always vote on those committee assignments so you do commit. You are voting on the Committee on Committees. We are seating that committee, so it does have to be voted on by the committee-- by the body as well as the Executive Board is

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part of a committee membership and we vote on that as well. So there is consistency. It's just those committees are voted on before the rest of the committees.

LATHROP: True.

CRAWFORD: Senator Lathrop.

LATHROP: And I'm just trying to avoid what happened two years ago when, when they got done doing all the committee assignments and one caucus looked at the other and said, we're not voting for this.

SCHEER: Yeah.

LATHROP: Right? Because the caucuses ought to be able to seat people according to whatever the caucus feels like is most appropriate. That's why we have the four Committee on Committees members.

SCHEER: Absolutely, but this would not have anything to do with internal workings of that,--

CRAWFORD: Right.

SCHEER: --of that body.

CRAWFORD: True. Any other questions? Thank you.

M. HANSEN: Thank you.

CRAWFORD: Do we have any testimony in-- proponent testimony for rule change 6? Any opposition testimony to rule change 6? Any neutral testimony on rule change 6? All right. Any desire to close?

M. HANSEN: All right. Thank you, Chairwoman Crawford and fellow members of the Rules Committee. With both of these proposals, I am appreciative that at the minimum we have an opportunity to kind of discuss the role of the Congressional district caucus. And I'm more than happy to work with the Rules Committee to tweak language as we see fit, as well as I think I've-- I think this is just always a-- a good discussion to move forward. So thank you for your time and your consideration.

CRAWFORD: Thank you. Thank you. All right. OK. All right, short break? All right. We've had a request to take a short break. Actually, we take ten minutes. Actually, and I-- five, five. If I could have the--

_____ : Boy, what a hard [INAUDIBLE]. [LAUGHTER]

CRAWFORD: So we'll reconvene at 3:00.

[BREAK]

CRAWFORD: All right. Let's see, some-- all here but Senator Howard. We'll go ahead and proceed. So we're returning now. And we are getting ready to discuss rule change 7. Senator Hilkemann. Welcome.

HILKEMANN: Good afternoon, Senator Crawford and members of the Rules Committee. Senator Robert Hilkemann, R-o-b-e-r-t H-i-l-k-e-m-a-n-n. I represent District 4, which is basically west Omaha. And I'm presenting for your consideration a rule change that-- regarding the motion to reconsider. And as did I understand, most of you got copies of a, of a note over the weekend from Nathan Leach regarding this motion to reconsider, some study that he had done, Nathan is a-- lives in my district. We've had correspondence on occasion on numerous bills over the four years that I've been down here and I just found Nathan to have interesting and very well thought out whenever he-- for whatever he's presented. So I looked at this issue and I-- and I'm not a parliamentarian. I've been-- certainly been part of my national organization and, and, of course, being part of this body where we appreciate the Parliament, but if it's on this motion to reconsider. And really when you think about it, if you look at the rules, and I studied the Robert's Rules on this and also some of the other manuals, that a motion to reconsider is really supposed to be used if, if you've been-- if you voted with the majority and on a motion and then you get some second thoughts about that motion, so, you know, I think I'd like to reconsider that. So if you voted in, in the affirmative or if you hadn't voted on it, you can make a motion to reconsider. Nathan pointed out that this motion being utilized in, in our-- is being used not so much for motions to-- of change of thought or change of mind on that, but it's more being used as a delaying tactic. And he presented some interesting statistics, and he had gone through the 2018 process. There are 31 votes for motions to reconsider. Only one of those passed. And I looked at this and I said, you know, this-- maybe we should take a look at this particular process, maybe it is being abused or not used properly. And so that's why I chose to present this motion. And Nathan is with us today and he's gonna follow me in testimony. He did present to me just a few moments ago that the best way that, that this should continue on would be also to amend just slightly the wording that was, that was initially, that you've got on your handout, and that would be "should the question fail." And you've

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got-- you should have had a handout just passed out to you at the present time. So it's a motion, I hope that you as a committee will take a look at it, if this is a process to properly use the motion to reconsider. And is it indeed just used as a delay tactic or should we-- can we use it in a better manner. And so with that, I will end my testimony here, Senator, and--

CRAWFORD: All right. Thank you.

HILKEMANN: --take any questions. Again, we're,--

CRAWFORD: Any questions for Senator Hilkemann?

HILKEMANN: --we're, we're pleased that Nathan is here today to present.

CRAWFORD: Yes, Senator Scheer.

SCHEER: Maybe not a question but a comment. Then certainly you can respond. You can-- if, if we were to pass this rule and it became passed on the floor, if indeed it is being used for a delaying tactic, all that a individual senator would have to do is simply reintroduce a-- or not reintroduce but introduce another motion, however trivial it might be, and essentially will still have the stain-- same amount of time available to him. So I guess my question is, having looked at this and having been around long enough that most of us understand certainly how you can circumvent this, is it really something that we should pursue?

HILKEMANN: Well, if, if you-- if you're trying to find a way to delay the process, you can certainly find a way to delay the process without putting this amendment. But it would also mean that we would be using the motion to reconsider on a more proper basis.

SCHEER: More appropriately.

HILKEMANN: Yes.

SCHEER: OK. Thank you.

CRAWFORD: Thank you. Any other questions? Yes, Senator.

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ERDMAN: Thank you, Senator Crawford. Thank you, Senator Hilkemann, for bringing this. You notice that I dropped in a similar amendment to the rule. I had the same e-mail that you had gotten--

HILKEMANN: Um-hum.

ERDMAN: --from Nathan. And I see that what was just handed to me was you changed: except the introducer of the question should, should the question fail. Is that, is that your intention to change that?

HILKEMANN: That, that would be the-- that-- thank you for bringing that. I wanted to point that out that, that to make this bill or this-- to change this rule, "should the question fail" would be a proper change in that original language.

ERDMAN: OK. I understand that. And you'll see later on in mine I changed it to-- I include a little more definition on when it can be used. I thought about the very same thing that Senator Scheer talked about. It doesn't really prevent someone from--

HILKEMANN: Right.

ERDMAN: --putting up another amendment, because my-- mine said about an amendment or, or advancement of a bill. A precarious thing that we're-- and I understand what you're saying, Jim, but--

HILKEMANN: Um-hum.

ERDMAN: --but I appreciate that. So that, that's your intent, to change the language?

HILKEMANN: That's correct. That's correct.

ERDMAN: OK. [INAUDIBLE].

HILKEMANN: That's what that does.

CRAWFORD: Thank you, Senator Erdman. Thank you. Any other questions? All right. Thank you for your testimony.

HILKEMANN: Thank you.

CRAWFORD: We'll now accept proponent testimony for rule change 7. Welcome.

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NATHAN LEACH: Madam Chairman, members of the Rules Committee, my name is Nathan Leach. That's N-a-t-h-a-n L-e-a-c-h. And I'm speaking in support of proposed rule 7 offered by Senator Hilkemann and Senator McCollister. I'd like to thank Senator Hilkemann for offering this amendment. I did send it to everyone, except for Senator Chambers because he doesn't have an e-mail. But I really appreciate the fact that it was offered and I didn't really think any-- there would be any interest from anyone. So maybe next time I won't send it to everyone. The first thing I wanted to, wanted to say is I, I really enjoy parliamentary procedure and I like watching the way that this Legislature operates. I was concerned in 2017 with the onslaught of different rules and amendments that were offered. And to me, what I saw was or what I believe is our nonpartisan institution can't work if both parties and both major groups don't feel as if the process is fair and, and is based on, on consistent principles. And so what I challenged myself to do was look at our rules as much as I can. I'm just a novice parliamentarian, so take it for what it's worth. But I challenged myself to look at different rules that, that might, might be slightly abused that we can, we can ensure that they're being used properly. And one of the most flagrant misuses within the Legislature is this, this motion to reconsider, and the, the biggest culprit is Senator Chambers, as we all know. But so I want to be very, very, very clear that I am a huge supporter of Senator Chambers, this rules amendment is not an attempt to silence him or make it harder for him to, to take time from the Legislature, says what-- or say what he would like to say. That's not my intention. The purpose, as Senator Hilkemann said, for the purpose or the, the purpose of the motion to reconsider is to allow members of the Legislature who voted on the prevailing side or were not present when the vote happened, if they've changed their mind because new information has come to light. But currently what's happening is a senator introduces a motion, let's say a motion to recommit a bill to committee, and instead of voting for his own or her own motion the senator either abstains or votes against it with the intention of then reconsidering in order to continue debating that question. And the motion to reconsider is one tool in a toolbox of many motions that someone can use if they want to take time from the Legislature. And to the Speaker's point, the, the issue with the motion to reconsider being used in this way is other motions-- let's say you introduce an amendment, you're filibustering a bill and you introduce an amendment. And your amendment is really just designed to take time, but you're at least challenged to put up the facade of being productive. And that at least challenges you to look at the bill and say, how can this bill be changed? Even if you're offering a

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motion to recommit to committee and the motion fails, you, you still at least put into the record and have a conversation as a body whether or not that's a decision you want to make. When you move to reconsider after a vote has happened, when you clearly-- clearly overwhelmingly the vote failed and you in some ways dishonestly either abstained or voted against your own motion in order to reconsider, you don't move the needle toward compromise. You just take time to rediscuss what's already been decided. And that's my main, my main problem with the motion to reconsider being used like this, is because it doesn't align with that purpose of the motion to reconsider. Now the language that I suggested be added is after, so it would say, except the introducer of the question, should the question fail. And this is actually very important. Because if you introduce an amendment and your amendment passes and then you realize, wait, I didn't actually want this amendment to pass, with this language you, as the introducer of the question, that being an amendment, could move to reconsider. And that's a completely proper use of the motion to reconsider. It's when the question fails that when a member is forced to either abstain or vote against their own motion to move to reconsider, that's where the, the problem really lies. So this is a small change. There's other ways you can take time, but I think it's definitely a way for the Legislature to say that we're trying to ensure that our, our rules are being used properly and closing the loopholes that might exist. So thank you again for your time, and I'd be willing to answer any questions.

CRAWFORD: Thank you. Any questions? Thank you for your testimony. Any other proponent testimony for this rule change? Any opponent testimony for this rule change? Any neutral testimony for this rule change? Any closing?

HILKEMANN: Unless there's a question, I'll waive closing.

CRAWFORD: All right. So that will end our hearing on rule-- proposed rule number 7. We'll now move to number 8. Senator Erdman.

ERDMAN: Thank you, Senator Crawford. My name is Steve Erdman. I represent the 47th District. That's S-t-e-v-e E-r-d-m-a-n. I won't be lengthy in my discussion of the rule 7 change. I had gotten that information, as I said, from Nathan and looked at it. When we put it together, my staff and I were looking at this, it didn't look really very clear as to how we're going to go forward. So the information that I put in there, the underlined part about a motion to reconsider shall be limited to motions that cannot be renewed, as a point of

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clarification so people understand what exactly we're trying to limit here, so a motion to reconsider would not be applicable to such motions as to bracket or whatever it was and those kind of motions that can't be brought forward. So a bill or an amendment to a bill would be considered part of the reconsider motion; the others would not. As you looked at the list that was passed out, there was 31 or 35 opportunities that reconsider was used. And you'll notice at the bottom, the last name there happens to be mine, and I used that on the last-- when, when the budget came. I didn't like the budget. I used it there. [INAUDIBLE] exactly what it was. I would agree it was a stall tactic. It was a diversion. And I would assume that most of those, probably all but ten of those, were considered a stall tactic. There was about ten of them that were used on bills or amendments. And as was stated by Senator Hilkemann, only one of them was successful. I seen the information that Senator Hilkemann added to the rule change that he made. I, I would agree with that. And if you want to consider adding this amendment as it is with that added language of definition, I would appreciate that. And I understand, Speaker Scheer, that this will not limit, will not limit someone from throwing an amendment to change a word or a punctuation or whatever it is to continue the discussion. But it would be a more fair way to use and distribute the reconsider motion. So with that, I will end my comments and take any questions you may have.

CRAWFORD: Thank you, Senator Erdman. Questions? I wonder if you could clarify what you mean by a motion that cannot be renewed and, and then what you would define as procedural motions.

ERDMAN: Well, those, those motions that were on that sheet, that 35, whatever there were: bracket, indefinitely postpone, resend to committee. All those type of motions would not be eligible for reconsider. It would be the advancement of a bill or the advancement of an amendment to a bill.

CRAWFORD: All right. Thank you. Any other questions? Thank you for your testimony.

ERDMAN: Thank you.

CRAWFORD: Anyone wishing to speak in support? Any proponent testimony for rule change 8? Any opposition to rule-- testimony to rule change 8? Any neutral testimony for rule change 8? Welcome.

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NATHAN LEACH: Madam Chair, members of the Rules Committee, my name is Nathan Leach. That's N-a-t-h-a-n L-e-a-c-h. And I'm speaking in a neutral capacity on proposed rule 8 offered by Senator Erdman. So this, this isn't exactly how I would go about adding this, this clarification, especially the first thing I would suggest is removing the second sentence: A motion to reconsider is not in order when applied to procedural motions. That's a little vague just because all motions are procedural. But so if you look in Mason's Manual of Legislative Procedure, it talks about when it's in order to make a motion to reconsider. And so if the body felt that it wanted to use Mason's Manual, Mason's Manual's advice on when it's in order, I think that the path of least resistance to do that would be for the Speaker or the presiding officer to look at that authority and say, this is what-- this is the general parliamentary law on when it's appropriate to use the motion to reconsider, so moving forward this is going to be when it's proper to make the motion to reconsider. So if someone improperly-- or made a motion to reconsider, let's say, on a motion to bracket that failed then you could call that motion out of order. And if the body feels that that's improper, they could appeal the decision of the Chair and vote on whether that interpretation is correct. A member could also stand up and call a point of order on that type of reconsideration motion and say, according to the parliamentary authority, Mason's Manual and Robert's Rules of Order both talk about this; I think this isn't how we should be handling it. And then you could make a determination as a body at that point. There's just so many nuances to the motion to reconsider that boiling it down into these two sentences I just think is gonna confuse people. It's better just to, to go directly to the authority on it. The other thing is if you adopt the, the amendment from Senator Hilkemann with that added language, I think that would be-- that would cover any-- I mean that would really remove any instances of abuse to the motion. And, and lastly, I would just, just add if, if, if the Legislature feels that-- how do I put this? Sometimes it's best not to stir the pot. And if the Legislature feels like this use of the motion to reconsider is working then I think the, the path of least resistance is probably the best way forward. So I'd be willing to answer any questions.

CRAWFORD: Thank you. Any questions? Thank you.

NATHAN LEACH: Thank you.

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CRAWFORD: Any desire for a closing? No? All right. We have no letters, so that ends our, our hearing on rule change 8. And now we will move to rule change 9, also Senator Erdman.

ERDMAN: Thank you, again. My name is Steve Erdman, S-t-e-v-e E-r-d-m-a-n. I represent the 47th District. I submit to you rule change 3, subsection (3) or Section 3. I may note that at the bottom, under (b), we need an S right there under: the speaker shall be. So if we put that in there, we may want to make that correction. OK. So what I have proposed here is that all committees have odd numbers. And there are eight standing committees with eight members. And so you do the math, it's pretty simple. Four committees go to seven and four committees go to nine. Having an even number on the committees is very peculiar. I thought about introducing something that said the Chairman doesn't vote, but I don't like that one at all. Numerous committees and boards I served on and commissions, so most always had an even number. We had one that had ten and we had a rule that the chairman never voted unless it was a tie. And that was kind of a difficult position to put yourself in as chairman. I was chairman for many years and there are many times I would like to have voted on an issue and I didn't get the opportunity because it wasn't a tie. And so consequently, I don't believe that would be the correct procedure. But I think all committees ought to be even numbers. And how we divide those up, I don't I really care, but I do know that if there's eight of them and you have four going to seven and four going to nine, you've accomplished your purpose. And so that's my recommendation, that all standing committees shall have-- be an odd number.

CRAWFORD: Thank you. Questions? Yes.

M. HANSEN: Thank you, Senator, Senator Crawford. And thank you, Senator Erdman, for bringing this in front of me. You, you kind of addressed the question I was preparing to ask you. But currently, the way we've structured committees in this Legislature is that everybody serves on a committee five days a week. Is your intent to, with this language, still continue that, that everybody will still have five days' worth of committees and we'll just have to figure out the numbers in some method?

ERDMAN: That's my intention, yes.

CRAWFORD: Thank you, Senator Hansen.

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M. HANSEN: Thank you, Senator.

CRAWFORD: Any other questions? Thank you. We'll now take testimony in support of proposed rule 9. Any testimony in opposition to rule change 9. Any neutral testimony on rule change 9? Any closing? All right. That will end our hearing on rule change 9 and we'll now move to rule change 10. Senator La Grone. Welcome.

La GRONE: Thank you, Chairwoman Crawford. My name is Andrew La Grone, A-n-d-r-e-w L-a G-r-o-n-e. I represent District 49, which is northwest Sarpy County, including Gretna. I brought this rule change to continue a discussion that occurred last year around the regulatory reform bill, LB299. This rule change was originally a part of that bill. And during that discussion some senators felt that because this directed legislative staff to carry out some duties it might better be fit into our rules as a body. So my main purpose with this is to allow the-- that discussion to take place. And then also I will let Senator Ebke, who's coming up shortly, speak to the policy of the rule change. But I also wanted to speak to the staff portion of it. There was some concern last year about the amount of work that this might place on committee staff. Having been committee staff that went through the boards and commissions report, which is very similar to how the LB299 process will carry itself out, I really don't think that would actually be the case. So how that-- how the boards and commissions process worked and how I think this probably would happen is a process was created whereby interested parties could submit the information they were looking for. Here it spells out exactly what sort of information the committee staff needs to take into consideration when they're doing this analysis. And so it would be some extra work, but there wouldn't be the information gathering exercise that you might think would be required by a rule change like this. Further, this rule change wouldn't apply to every bill. As you can see, it's only before the committee takes action on the bill, so it would only apply to bills that were actually "Execed" on. And that kind of interplays with the information, information gathering exercise because those interested parties, if they know this is necessary in order for their bill to be "Execed" on, will obviously have a very high interest in providing that information to committee staff. So again, this is primarily to allow the conversation to-- that started last year to continue to take place. But I wanted to give this committee the opportunity.

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CRAWFORD: All right. Thank you. Questions? So is your intent that it would, it would happen sometime in the process between when it gets sent to a committee and it gets "Execed"?

La GRONE: Correct. Yeah. Um-hum.

CRAWFORD: All right. Thank you. Yes, Senator Scheer.

SCHEER: Thank you, Senator Crawford. Senator La Grone, for what it's worth, it was part of LB299, and I, I don't want a carte blanche statement as yours that those that didn't want-- that it was jettisoned because those thought it should be a rule. That was certainly not the case on my part. I, I thought it was onerous for anybody to have to do in relationship to that. If we're gonna do that, I truly believe it should be in a legislative proposal, not in the rules that govern the body. So for just correction that it was not I don't think--

La GRONE: Sorry, I meant to indicate some. I didn't mean to indicate that everyone felt that way.

CRAWFORD: Thank you. Anyone else? Yes, Senator Erdman.

ERDMAN: Thank you, Senator Crawford. Senator La Grone, on the bottom of page 16 you said the effective date, this rule is effective on the first day after adoption. Is that, is that your intent?

La GRONE: Yeah. So what I did with the language was I took the language that was originally, again, for the purpose of continuing discussion where it was left off,--

ERDMAN: OK.

La GRONE: --took the language as it existed then. So it wasn't changed at all from then. So I, I have no marriage to any specific provision of it.

ERDMAN: All right. But that would be the intent of what you're put-- putting forward here?

La GRONE: And that was the language that was introduced--

ERDMAN: OK.

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La GRONE: --last time. So if that-- if the committee feels that's not appropriate that I have no issue with that.

ERDMAN: Thank you.

CRAWFORD: Any other questions? Thank you for your testimony. We will now take testimony in support of rule change 10. Welcome.

LAURA EBKE: Thank you. Thank you, Chair Crawford, members of the Rule-- Rules Committee. For the record, my name's Laura Ebke, L-a-u-r-a E-b-k-e. I am the senior fellow for job licensing reform with the Platte Institute and I was also the primary sponsor of LB299. And I, I appreciate-- I'm sorry. I appreciate the opportunity to talk about this. As was noted, this portion of the bill was in the original version of the bill. And as some of you will attest, we got to LB299 through a lot of blood, sweat, and tears. On the last day of the session, we passed it. And one of the concerns that was raised, in addition to others and, you know, we, we decided to find the path of least resistance, was the question of whether or not this should be in the rules or in the, in the-- in statute. You know, in retrospect I probably would have preferred that it be in statute. We pulled it out and with the agreement that it would be made part of the rules or that it would be proposed as part of the rules. From an occupational licensing standpoint, Ohio recently passed a bill and it was signed into law by the Governor at the end of the year that has much more significant, both sunrise and sunset, regulations than we have here. We have a number of-- Wisconsin has, has done some work in terms of Sunrise Reviews that they do through a separate organization. We moved, because we wanted to get away from the, the fiscal note, we move to legislative review of all of these things. For-- you know, for most of the licenses that come through, the reality is, I think Senator Howard will agree, most of them that come through Health and Human Services will go through the LB407 process and the LB407 process already asks a lot of the questions that this rule asks for. So it will be a relatively small number of one, presumed, but Sunrise is important, the Sunrise Review is important because-- in an occupational licensing framework, because if you don't have a Sunrise Review you start adding things without-- you know, without giving it the serious consideration that it ought to have. I think that's especially important in a term limited environment when people don't have the opportunity to stop and think about why you are creating licenses. The LB299 process, if you will, you know, directs much as the LB407 process did before it that-- you know, we want to have the

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least possible restrictive environment for licensing. So as much as anything, what this rule will do, I think, is to ask that the Legislature consider-- continue to think about why they want-- you know, what the purpose of the license is and whether there's another way to, to approach regulation. So with that, I would be happy to answer any questions if you have some.

CRAWFORD: Any questions? Thank you. Thank you for your testimony.

LAURA EBKE: Thank you. And I appreciate Senator La Grone introducing this on our behalf.

CRAWFORD: Any other testimony in support-- proponent testimony? Any opposition testimony? Any neutral testimony? Any closing? No. OK. Then that ends our hearing on rule change 10. We will move to rule change 11. Senator Hilgers.

HILGERS: Good afternoon, Chair Crawford and members of the Rules Committee. For the record, my name is Senator Mike Hilgers, M-i-k-e H-i-l-g-e-r-s. I represent District 21 in northwest Lincoln and Lancaster County. I'm here-- I have proposed rule 11 and 12. My opening will cover really both. I mean they, they are sort of companion rules. I will say at the outset, it was my oversight but I will be offering an amendment to both of those rules that would clarify that they would not take place until-- the changes would not take into effect until 2021. And so what I intend to do is just give a little history. There's some historical context to both of these rules, and I just want to lay out briefly how it is that we got to this point and the work of various senators of the Legislature to get to this point. So two years ago the Rules Committee, at a hearing just like this two years ago, had a number of rules related to various issues to the standing committee system, and they went to different aspects. Some were similar to Senator Erdman's, the, the number and makeup of senators of committees; others went to the workload imbalance, the perceived workload imbalance, in particular with the Judiciary Committee and the-- a number of other committees that maybe didn't have as many bills that they heard, including the Ag Committee and others. As part of that, the Rules Committee did an interim study in 2017 to investigate further these types of issues and see whether or not there are other issues that we should address in the standing committee system. As part of that process, the Rules Committee, I believe it was LR192 report in 2017, detailed a number of issues that the Rules Committee at the time had identified that were worth further investigation. Among those were the workload imbalance that I just

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mentioned. Another one was the really precipitous decline in average tenure on committee system post term limits. It was, previous to term limits, it was well over three for almost every committee on average. And then it went, went to under about two years per committee post term limits. And so the other thing that the LR192 Committee determined was that, that change in the committees, which is a common sense-- that, that the idea that change in the committees could be very logistically difficult is fairly common sense. But what became clear through the research of that, through that report, was that every effort really since the mid-'80s to change the committee process in the Legislature had run aground. And there were a number of reasons for that, one of which was it was-- there wasn't a broad-based effort and another was that changes to the committees tended to be-- they couldn't fit them logistically into the schedule. In other words, there were efforts to combine committees. There were efforts to change the days of committees and usually the effective date of those changes were immediate or, or near, near immediate. And for those reasons, they couldn't logistically fit it within the schedule. The one time that we could find, at least, as part of that research in the last 80 years that the Legislature has made wholesale changes to the standing committee process was in the mid-1980s. Then Senator Beutler led a joint committee of the Legislature that analyzed all the committees, all the committees; eliminated several, including the Miscellaneous Committee, the Constitutional Revision Committee; created others, including the Transportation Committee. That was a model for a, a proposal that was-- the Rules Committee put forward in 2018 to create a similar joint committee of the Legislature, which was created, and that was the LR437 Committee. That committee which, which is-- the work of that committee is complete, I was the Chair of that committee. We met a number of times over the summer and fall to analyze the issues raised from the LR192 Committee and from senators two years ago. We, we looked at a whole host of issues. We debated a whole host of issues. We looked at things including limiting the number of bills introduced by senators to eliminating committees to creating new committees and the like. There were two sets of proposals that kind of came out of that process, two of which are here today in rule-- proposed rule 11 and proposed rule 12. The committee voted to recommend combining, combining Ag and Natural Resources. And I want to be very precise that this would not eliminate the Ag Committee. One of the reasons we found, there's been numerous efforts in the past, actually several efforts I should say, to combine those committees and in the past the effort was really focused around eliminating the Ag Committee. And then in Nebraska, a state that relies heavily on the

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agriculture industry, that that-- you could imagine, that that was-- those efforts failed in large part because it was perceived as taking away a committee of great importance to the state in Nebraska. So the LR437 Committee voted to recommend combining those two into one sort of larger Ag and Natural Resources Committee. That would be a three-day committee. The other change, as part of that, would be to eliminate the General Affairs Committee. As part of the discussions, although not part of the proposal and really just for record purposes and to, to give the Rules Committee the full scope of the discussion that we had on these, any change to the committee system, as you might imagine, creates a cascading effect for other committees. The one, you could do a lot of things if you elimin-- if you combine committees. You create a committee hearing day. One thing you could do, for instance, is have another day for the Judiciary Committee, and there was strong support in giving more time to the Judiciary Committee to handle all the bills that it has. But, but it was determined-- we determined as a committee that the best thing to do was to try to come up with the first changes and then take them sort of serially. And so the first thing we decided to do was recommend combining those committees. The other thing the Rules or the LR437 Committee discussed though was to try to work through some of these imbalance-- workload imbalance issues, through Referencing, potentially, and maybe through some other administrative and logistical means rather than through changing the committee process or actually committee-- the change in the committee system. So even though on the outset we determined that even if we wanted to make a committee change, it would be in two years, which is-- will be my proposed amendment. Independent of that we concluded that we had more work to do in order to work through the logistical issues to determine what happens even if you make those changes. Do you do a fourth day to-- for the Judiciary Committee? Do you create maybe a new committee for a different jurisdiction? Do you do something else entirely? And that more time was needed. So the LR437 Committee voted to recommend these changes that I'm bringing to you today. Also, voted to continue its work through a new resolution and reforming of that committee. It will have some different membership. And to work with the Executive Board, the Speaker, and the Chair of the Committee on Committees to see if we can work through some of these cascading effects and see if we can-- if these changes make sense for the body and then also figure out how to fit them within the larger puzzle of our standing committee process. So I apologize for the long-winded history. There's more to it. I'm happy to answer any questions that, that you might have. But to be clear, I'm asking the Rules Committee not to make any formal movement on this

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particular rules proposal at the moment because there's more work to be done.

CRAWFORD: Thank you. Any other questions? Yes, Senator Lathrop.

LATHROP: I just wanted to clarify your last remark, which is, these are my rule changes, don't do anything with them.

HILGERS: At the moment. That's correct.

LATHROP: OK.

CRAWFORD: Thank you.

LATHROP: All right.

CRAWFORD: Anyone else? Thank you. Thank you. We'll see if there's any-- oh, I'm sorry. Senator Scheer.

SCHEER: Thank you, Senator Crawford. And, Senator Lathrop, in response to that, we felt like this is sort of our presentation of our work over the last year in relationship to that. But this is only part A of a part A-B process, and we think, at least the committee thought, there'd be a lot of reluctance to support half of a project when you don't know what the other half might entail. And so that's why it's more of a opportunity to present the proposals that we have agreed upon as then we'll move forward with--

LATHROP: Is that committee still in existence?

SCHEER: It, it, it is, Senator, other than there were three or four members that were termed out so those will have to be replaced. And so I don't-- I'd say half probably, or a little better maybe, are still in the, the body. But Senator Krist and Harr, I'm trying to think--

HILGERS: Senator Kuehn.

SCHEER: Kuehn--

HILGERS: And Senator Schumacher.

SCHEER: --and Schumacher were all members of it as well, so.

LATHROP: OK.

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CRAWFORD: Thank you.

HILGERS: Yeah, and to be clear, I'm sorry if I-- maybe I was-- at the-- I would not do anything at the moment, Senator Lathrop. I think it's-- if taking a vote now, I think it would be incomplete information. At the same time, I didn't want to bring this-- the whole point of this was to have a long enough runway so that we if we wanted to go this direction we would have the time to do it. So I wanted to raise it with the Rules Committee now, that's what we voted on, to present it. But at the same time we don't have the full picture yet. So at least at the moment I'd--

SCHEER: Fair enough.

CRAWFORD: Senator Hansen.

M. HANSEN: Thank you, Senator Crawford. And thank you, Senator Hilgers, for presenting this. And I was going to ask you about the part B to your part A, so thank you for kind of nipping that question in the bud. I will say I kind of have a question kind of fundamentally about like the findings of the, the-- all the committees but most recently the LR437.

HILGERS: Um-hum.

M. HANSEN: So when you talk about the workload, did you-- who were you hearing workload from and what workload issues were you hearing, because I know you surveyed all the senators.

HILGERS: Um-hum.

M. HANSEN: And I wanted to know if you had like some sort of synopsis of what, what that had come and if people were feeling--

HILGERS: Yeah.

M. HANSEN: --they had too much time in a certain committee or whatnot?

HILGERS: That's a great question. I would say actually, interestingly, Senator Hansen, I would say a lot of the, the, the comments relating to workload were, were two things: one, were anecdotal, and actually curiously-- and I think without exception were from people who had not served on the Judiciary Committee. So to be very clear, either informally or through the work of the surveys that you mentioned, I don't believe there were any, any member of the Judiciary Committee

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that mentioned that they thought that they had too much of a workload on that committee. There were some I believe that said, hey, we could have an extra day; I think that would help smooth it out. The other, the other thing that we did look at, and this was in the LR192 report that the Rules Committee issued at the end of 2017, were actually work-- the number of bills.

M. HANSEN: Um-hum.

HILGERS: And I believe we actually looked at the total number of bills considered, define-- which we defined as the number of bills that go to a committee on which a senator sits, and we combined those numbers and, and looked at the various ratios. So for-- as a-- for instance, I think, Senator Hansen, you, and I'll put it on the record, you had the most bills considered in 2017 because you were on Judiciary, I think Business and Labor, and maybe one other. What was your, your third committee?

M. HANSEN: Urban Affairs.

HILGERS: Yeah, Urban Affairs. So you had the most considered. And the person who had the fewest considered were, I think, around 40, excluding Appropriations. Now, that's an imperfect proxy, right, I mean to workload because bills, even, even if you're just looking at bill numbers, some bills are more complicated, some are less complicated, some have many amendments. You bring your own bills. You have your committee chairs. So there's all sorts of other things to consider. But so to answer your question, was the anecdotal from non-Judiciary Committee members? And some of the data bore it out. It wasn't the number one driving thing for us to try to solve through either the LR192 or LR437 Committees. It was a factor that sort of like-- it was the first domino that fell and it started our process of investigation. Through that process there were other issues that we identified. But I hope that answers your question.

M. HANSEN: No, I do appreciate that because I, I was curious, I was curious because I know when I filled out my survey that you sent to all the members-- you know, I felt as a Judiciary Committee member, you know, yes, it is a large number of bills but when you divide them up into things that are consent calendar, things that the introducer will give you a heads up to not invest time and effort into-- you know, things that you either know or a repeat or whatnot, it quickly shrank into a very manageable numbers of bills that you're actually poring into, investing time and effort in. And so I was wondering if

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you were hearing that from other committee members or other committees in terms, in terms of like the workload issue, because we-- I'd heard it a couple times in relation to this committee and just wasn't sure.

HILGERS: Um-hum.

M. HANSEN: And I knew you'd given me the heads up in the past that I had the highest workload and I didn't necessarily feel. I didn't necessarily feel-- I felt busy but I didn't necessarily feel like-- you know, overburdened or, or incapable of doing my duties. I just felt busy. And so I was wondering kind of if you got that feeling from any other senator?

HILGERS: Yeah. And I would characterize that was probably the number one reason that started the process. But if I were to say at the end, this is my impression at least, the two, the two things that I think drove the committee at the end were-- or meant maybe a plurality of the members of the committee, one was the idea that we've lost so much institutional knowledge through term limits. Certainly there's, there's the core aspect of that we can't change, right? It's in the constitution. People are leaving after a certain number of terms. But are there things that we can do through our committee, standing committee process, to help mitigate some of that, some of the erosion of institutional knowledge? That was one thing. I think that was just a stark data point. The other thing I think was just the idea that like we have not really looked holistically at our committee system in 30 years. The world's changed in many ways. Are we, are we-- is our committee system still standing the test of time for the challenges that Nebraskans face today? So I think those are probably one and two. And then ultimately workload actually became far less of an issue.

M. HANSEN: OK.

HILGERS: But it certainly was prominent at the beginning.

M. HANSEN: All right. Thank you, Senator.

HILGERS: Um-hum.

CRAWFORD: Thank you. Any others? Yes, Senator Scheer.

SCHEER: Just a final comment that the committee also felt that we realize to a certain extent we are at risk because by not moving forward with anything now we're forfeiting a simple majority of 25 votes versus having to have a 30 majority if we bring it up during the

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sessions, either this year or next. But our belief was it should be very, very large, broad-based support--

HILGERS: Um-hum.

SCHEER: --for any changes we make. And so that's why we were not concerned because if you, if you don't have full, broad-based support, we're probably wasting our time.

CRAWFORD: Thank you. Any other questions or comments? Thank you for your testimony.

HILGERS: All right. Thank you.

CRAWFORD: Do we have any testimony in support of proposed rule change 11? Any opponent testimony to rule change 11? Any neutral testimony to rule change 11? No closing. So we'll now change-- move to proposed rule change 12, also Senator Hilgers.

HILGERS: Thank you, Chair Crawford. For the record, my name is Mike Hilgers, M-i-k-e H-i-l-g-e-r-s. I represent District 21, northwest Lincoln and Lancaster County. I refer back to my previous testimony. The only additional thing that I would say that applies to this proposed rule versus the first one is the committee voted to propose the gen-- the elimination of General Affairs only if on the, on the express condition that we were able to figure out where the jurisdiction of General Affairs could go. There was a sense that, that General Affairs was sort of-- is sort of an outlier. It's sort of a holding pen for maybe a miscellaneous set of bills. But we weren't clear. You know, in the Ag, Natural Resources context, we understood that we could combine those two and they had natural home-- it was a natural home for Ag. If we were to eliminate General Affairs, it wasn't clear where all of that-- those bills would go. Some might go to Revenue. Some might go somewhere else, maybe Judiciary. But so that is some of the work that we want to do during the year is to see if we could find a place for those bills to go. And if we can't then I want to make sure on the record that I'm clear that, that, that it was conditioned on us being able to successfully find places for those bills to go.

CRAWFORD: Thank you. Any questions? Thank you.

HILGERS: All right. Thank you.

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CRAWFORD: Is there any testimony in support of rule change 12? Any testimony in opposition to rule change 12? Any neutral testimony on rule change 12? All right. Any closing? All right. That will end our hearing on proposed rule change 12. Rule change 13 is proposed by me, so I'll ask Senator Lathrop if he would preside.

LATHROP: Sure. Welcome to the Rules Committee, Senator Crawford.

CRAWFORD: Sorry. This is a list of the, the letters that came in. [INAUDIBLE] announcement at the end. Excuse me.

_____ : Thank you.

CRAWFORD: Yes.

LATHROP: You may proceed.

CRAWFORD: All right. Thank you. Good afternoon, Rules Committee. I am grateful to be here. My name is Sue Crawford, S-u-e C-r-a-w-f-o-r-d, and I am bringing to you a proposed rule change, change to Rule 3, Section 19, which is about the committee statement. And the committee statement I think is an important statement that we use on the floor to try to get a summary of what's happened in a committee to determine who is supporting and who is opposing in committee, both senators and testifiers. My proposed change is to be more inclusive in who we list on that committee statement. And specifically, it, it proposes adding a list of those who are present at the hearing and submit their names to the hearing of the bill, any organization that they represent, and a list of all individuals who submit written testimony for the record and the organization they represent, provided that their written testimony was received by the Chairperson's office by 5:00 p.m. on the business day before the hearing is scheduled. So this is simply an effort to be more inclusive of what's represented on the committee statement and to represent those who attend and fill out a sheet. And right now that, that sheet the people fill out when they attend and sign in just is part of committee record. It's not shown in any other way. And the letters are something the committee sees but other people don't see who submitted letters, so this is an effort to provide that information in the committee statement.

LATHROP: Very good.

CRAWFORD: Thank you.

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LATHROP: Any questions for Senator Crawford? I see none. Are there any proponents to proposed rule-- to Senator Crawford's proposed rule change?

SPIKE EICKHOLT: Good afternoon, Senator Lathrop, members of the committee. My name is Spike Eickholt, S-p-i-k-e last name is E-i-c-k-h-o-l-t, appearing on behalf of the ACLU of Nebraska in support of this rule. We actually proposed this rule last year and those of you who are on the Rules Committee may remember at least the proposal and the discussion. And we want to thank Senator Crawford for actually introducing the rule proposal change again. We're asking for this change not necessarily or not at all or actually for us in the sense that the ACLU of Nebraska, we do have a full-time lobbyist who can be here and who can testify and who does testify on the record. And-- but the-- I think this would benefit the citizens. I think it would benefit those entities who cannot afford a full-time lobbyist to come here and sit here in the Capitol all day and testify. It would particularly benefit those folks who live in Senator Erdman's district, five, five and a half hours away; and Senator Scheer's dis-- Speaker Scheer's district three hours away who can't come down here to testify live on a bill but may have something substantive, something helpful, and something important to add to the testimony. You know, I understand that there is an advantage to having people testify live at a committee hearing. You have the interplay, the question and answer and so on. And I'm not talking only about myself but simply testifying live does not necessarily mean you have anything helpful to say for the committee to consider. And the inverse is true. You can get an e-mail from a constituent or somebody who is familiar with the underlying area of the law. You receive that. Yes, you can share it with the committee. Yes, the committee can discuss it and receive it and share it. But when you are out on the floor and that committee statement comes out, it's not reflected there. You just see the proponents and the opponents who actually show up and testify live. And that's not always an accurate description of the testimony that was offered at the committee level. So that's part of the reason why we propose it. I understand that senators get e-mails, they get letters from people, constituents and otherwise, expressing opinions about bills. And perhaps there is some pragmatic or practical difference to figure out whether that should be considered a written testimony on a bill. But I think that can be accommodated just by describing it in the committee statement. In other words, the committee statement could list who testified verbally, written testimony offered in response, and perhaps maybe just a description

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generally of e-mail correspondence or something like that, so that a viewer or somebody reviewing the committee statement would know exactly how much weight perhaps to give that. So again, we would urge the committee to consider this rule change. I think it makes some sense. And I'll ask any question-- answer any questions if anyone has any.

LATHROP: Any questions for this witness? Speaker.

SCHEER: Thank you, Senator Lathrop. Just to clarify the record, I, I know I don't always abide to the speed limits, but it does not take three hours to drive to Norfolk. But more to your point as well, when you're talking about most of these, the letters of recognition that Senator Crawford-- are from organizations. And I think more to point, and I'll ask you if you agree or not, but you have a lot of people that work all day every day. And either they have to take the time off of work to go testify at a particular hearing and would be financially hurtful for them or their family and certainly by allowing this recognition for those that cannot be here to be-- they are read into the record in most cases that I know of. But actually to show up on the committee statement might also be helpful. At least they'd know they were part of the process as well.

SPIKE EICKHOLT: I agree. I wish I would have made that point. You're absolutely right. It's got to be very, it's got to be very encouraging for them to see that, that what they did mattered, that a senator actually read their letter and apparently considered it.

LATHROP: I see no other questions. Thanks for your testimony.

SPIKE EICKHOLT: Thank you.

LATHROP: Are there any other proponents wishing to testify? Good afternoon, once again.

NATHAN LEACH: Mr. Chairman, members of the Rules Committee, my name is Nathan Leach, that's N-a-t-h-a-n L-e-a-c-h, and I'm speaking in support of proposed rule change 13. I won't take very much time at all. But I will say that in 2017, I submitted written testimony on about 70 legislative bills in a neutral capacity and I was very disappointed not to see that my name was not written on those committee statements. That's a little bit of a-- that's true, but I'm joking a little bit. I do think it's really important that the name be listed on there. I've corresponded with several different committees

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and it's-- I think it would be encouraging to have that recognized on the statement. I live in Kearney, so it is challenging to be able to, to be able to travel on every time a bill comes up that I'd like to have my voice heard about. So thank you.

LATHROP: Very good. Any questions for this witness? Senator Erdman.

ERDMAN: Thank you, Mr. Leach, for coming. I will verify his, his comment about being at 70 committees testifying in the neutral stage because I think 69 of those I was in attendance. [LAUGHTER]

LATHROP: All right.

NATHAN LEACH: Thank you.

LATHROP: I see no other questions. Thanks again for your testimony today. Good afternoon.

JO GILES: Good afternoon. Members of the Rules Committee, my name is Jo Giles, J-o G-i-l-e-s. I'm the policy and training director with the Coalition for a Strong Nebraska, or CSN. Our coalition is nonpartisan and made up of more than 100 nonprofit and service provider organizations that are committed to common-sense public policies, solutions that can create opportunities for a great start, a good life, and a better future for all Nebraskans. We help strengthen nonprofit organizations with the skills, the resources, and tools to be effective partners with policymakers, and we strongly support the proposed rule change, Rule 3, Section 19, to require a listing on each committee statement of the individuals and organizations they represent, as well as their support or opposition to a bill. We thank the ACLU of Nebraska, which is one of our CSN members, who spearheaded and brought this issue to the Rules Committee and to Senator Crawford. You may notice in your packet you have letters from about 20 of our organizations who are supporting this rule change based upon how it feels and what makes sense for their organization. When we do trainings across the state we often hear from nonprofit and service providers that they have limited capacity to be able to be here. They're spending their days on the front lines, making sure Nebraskans have the resources and services that they need to be successful. Despite their desire, they often cannot be here. And while written testimony is accepted, it is not represented on the committee statements and, therefore, does not present an accurate view of the interest in proposed legislation. We believe the nonprofit community is-- has critical statistical information, as well as stories from

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clients and community members, that should be part of the public policy debate. In keeping with the great tradition of our state, this rule change would ensure individuals can truly be part of the second house and weigh in on important issues that impact us all. I strongly encourage you all to consider this proposed rule change. And I'm happy to answer any questions.

LATHROP: Any questions for this witness? I see none. Thank you for coming down here today.

JO GILES: OK. Thank you.

LATHROP: We appreciate your testimony.

JO GILES: And I'd also like if I could just mention that we encourage our nonprofit leaders to present letters that are individualized based upon their experience. So we do not encourage form letters. So that may be helpful in your decision-making process.

LATHROP: Thank you for that.

JO GILES: Thank you.

LATHROP: Yeah.

SCHEER: Senator Lathrop, I might want to remind you that you've switched hats now. These aren't witnesses; they are testifiers.

LATHROP: Testifiers, OK. Well, they're kind of witnesses, but I'll call them testifiers. Are there any other proponent testifiers? Anyone here in opposition to this proposed rule change? Anyone here in a neutral capacity? Seeing none, Senator Crawford, you are good to close. Can I ask you a couple of questions if you don't mind?

CRAWFORD: Sure. No, I will. OK.

LATHROP: Has, has any committee Chair done this on a voluntary basis, if you know?

CRAWFORD: That's a good question. I, I had heard that General Affairs, but I don't know if--

SCHEER: Not that I'm aware of.

CRAWFORD: OK. Not that I'm aware of.

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LATHROP: Do you anticipate-- a second question-- do you anticipate that there will be fewer testifiers for and against proposed legislation if they can mail in their testimony?

CRAWFORD: I think that's a possibility, yes.

LATHROP: Senator Scheer.

SCHEER: When you're done. I'm--

LATHROP: Well, and-- and, yeah, that was a question I had because it occurred to me that if people, if people can show up on this list, they may be less apt to take the chair--

CRAWFORD: Right.

LATHROP: --and repeat what the person ahead of them said or they may be more likely to mail in their testimony versus making a personal appearance.

CRAWFORD: I would think that would be probably an effect of the rule change.

LATHROP: Senator Scheer.

SCHEER: Senator Crawford, the only concern, as you're closing, and I really appreciated the last testifier in relationship to those letters explaining those individual needs because that would be one of, one of the concerns that I would have is that we end up in the mode where every organization just broadcasts, here's a letter, please send it in. And so you end up with 842 names that have sent in an e-mail; they're all the same letter. And that's the other edge of the sword. Because I don't-- personally don't feel that those card type or reproductive type letters of support or opposition are very effective. And I hate to have, if we go along with the rule change, if we do change that, it just becomes a tactic of, gosh, look, it was 642 to 7. Well, yes and no. And so I-- that's-- that-- I was-- I support it, but that's the caveat.

CRAWFORD: Right.

SCHEER: I am concerned that it can be misused as well.

CRAWFORD: Right.

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LATHROP: So-- if I may, that's a great question. So would you include e-mail? So somebody sits down, takes the time to write an e-mail to the Chair of the committee. This bill's coming up in-- you know, in two days. I see it on the agenda. Here are my thoughts. They lay it all out, give us their address and phone number and their name. Is that included or are we just putting letters in? Because I think that's a fair, a fair concern [INAUDIBLE].

CRAWFORD: So my, my understanding from what I would intend with this language is that if somebody sent a e-mail and asked that it be included as written testimony, that it would be, it would be considered rather even if it was an e-mail.

LATHROP: So they would have to-- and, and that's a fair distinction.

CRAWFORD: That's a fair, yeah.

LATHROP: If someone sends an e-mail, and we may need to change this--

CRAWFORD: Right. We--

LATHROP: --or amend this--

CRAWFORD: Right.

LATHROP: --a little bit. But if they're going to do it by e-mail then they're gonna have to make a specific request to have it included. That said, let's-- trying to think of some bill that we've had. I've had some back in the-- when I served the first time when I was in Ag Committee that dealt with the humane society issues. We were getting hundreds of e-mails--

CRAWFORD: Right.

LATHROP: --from all over the country. People that didn't even live in the state we're sending us e-mails. And if they all got-- understood our rule and said, here's my letter, please include it in the record, and it's just a form letter that somebody shared with them to say put your address on it and send it in, what do we do with that?

CRAWFORD: Right. Right. That's a good question. As I think the, the letters that come in often come in as attachments to an e-mail. So I don't think we would want to require it to be paper letter delivered. But how you distinguish a letter from e-mail testimony, I think this current language doesn't, doesn't address that. And it would be the

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case that if, if 50 or 500 people send an e-mail, that would create that situation.

LATHROP: What would you propose doing with it?

CRAWFORD: Well, I guess--

LATHROP: And I'm not trying to put you on the spot,--

CRAWFORD: No, that's fine. That's fine.

LATHROP: --but I think it's,--

CRAWFORD: That's fine.

LATHROP: --I think it's a fair--

CRAWFORD: I guess I would err on the side of being inclusive and realize there are gonna be some committee statements that have a lot of names on them. But that only happens, I think, for a small number of our bills. So I think it's, it's the risk that you take for the sake of getting the inclusiveness of getting-- hearing-- seeing the names on all the other bills.

LATHROP: OK. Speaker Scheer.

SCHEER: Well, certainly we can discuss in Exec Session. But I guess what I was going to ask, if you've found as an applicable [INAUDIBLE], if you have a form letter that is returned rather than listing 362 names that sent that, you simply would state 362 letter-- identical letters were received in support or in opposition. So in and of itself, you can send them. But if there are a form letter or duplicate in its mass mailing, that it still shows up; it just doesn't show up individually because it really is not an individual request.

LATHROP: All right. Senator Erdman.

ERDMAN: Thank you, Senator Lathrop. Senator Crawford, on number 5 and, and I'll just admit to you I've not looked at one of those sheets that an individual fills out. So my question is number five says a list of all individuals present at the hearing who submit their names to the committee taking a position. So when they fill out that--

CRAWFORD: Right.

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ERDMAN: --paper, is there a place for them to designate their position?

SCHEER: In the back.

CRAWFORD: I believe so, yes.

SCHEER: Are you talking about [INAUDIBLE]?

CRAWFORD: The ones that are in the back for--

ERDMAN: Yeah, because I've never--

CRAWFORD: Right.

ERDMAN: --I've never looked [INAUDIBLE].

SCHEER: Yes, there is.

CRAWFORD: Yeah. Yes, there is.

ERDMAN: OK. All right. So if, if there's nothing marked, do you put their name in?

CRAWFORD: As taking a position on the bill, so I think it indicates that those who sign in and take a position on the bill would be the ones included.

ERDMAN: It says list of all individuals present.

CRAWFORD: Who submit, who submit their names to the committee as taking a position on the bill.

ERDMAN: OK. So if you don't submit a position, your name won't be included?

CRAWFORD: Right.

ERDMAN: OK.

LATHROP: Senator Scheer.

SCHEER: A clarification to Senator Erdman's point. Last year, the Chairs all determined that, and it was on the, I believe, the Clerk's Web site and then eventually I believe on the committee Web sites, the Chair of the committee, it, it specified if you would like to e-mail a

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letter of support or opposition, opposition or neutral in relationship to a bill, one, we have to have your name and address, the bill number, and are you in support, neutral, or opposition, and then the body, so that when they come in they are-- it should be fairly obvious by the letter body in what camp that would be submitted. And it also, I believe last year, gave them up until 5:00 p.m. the day before the hearing to submit that in order to be part of the record.

ERDMAN: Yeah, that's what this says.

LATHROP: I do have one more point.

CRAWFORD: Um-hum.

LATHROP: And this came to me by way of my committee clerk who's, as you know, has been around for a little while.

CRAWFORD: Right. Right.

LATHROP: Two concerns that Laurie expressed to me: one is that sometimes the names are really, really like impossible to read. So maybe we need to say legible names on those lists. And the other concern was that somebody could show up and write down four names,--

CRAWFORD: Oh.

LATHROP: --because no one's really monitoring that table. And the way that has-- seems to work is if you have a, a hearing where a lot of people want to testify. You're the Chair of the committee. You say, you know, you don't have to get up here and say the same thing; you can just fill this sheet out. Right?

CRAWFORD: Right.

LATHROP: And that's the sheet you're talking about in paragraph 5, right?

CRAWFORD: Right. Correct.

LATHROP: If they fill that out but, but there's nothing, no one's monitoring that sheet, so if I showed up, I could write down four people's names. So I don't know how we monitor that or whether that's a good reason not to do that.

CRAWFORD: Right.

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LATHROP: But--

CRAWFORD: Well, someone could also send e-mails from four different people or letters from four different people. I think that's a, a risk that you have in each of these-- both of these situations.

LATHROP: Fair enough. Any other questions? OK.

CRAWFORD: Thank you.

LATHROP: Thank you very much. That'll close our hearing on that proposed rule.

CRAWFORD: Should we, should we read the letters into the record for that in support, the list of--

LATHROP: Yes.

CRAWFORD: --before we--

LATHROP: In support--

CRAWFORD: --finally close it, close close.

LATHROP: The Coalition for a Strong Nebraska is in support.

CRAWFORD: There is a list.

CHRISTINA MAYER: There's a list, Senator. Yeah, right there.

LATHROP: Yes. Those submitting letters for the record include a general letter from James Woody.

CRAWFORD: You can just do the 13.

LATHROP: Pardon me?

CRAWFORD: You can just do ones for 13.

LATHROP: Oh, I'm sorry. For proposed rule 13, Nebraska Coalition to End Sexual and Domestic Violence, the Brain Injury Alliance of Nebraska, Nebraska Alliance of Child Advocacy Centers, Nonprofit Association of the Midlands, Nebraskans for the Arts, Nebraska Appleseed, Women's Fund of Omaha, KVC Nebraska, Goodwill Industries, Sheena Helgenberger, Planned Parenthood, Heartland Family Services, Voices for Children in Nebraska, Habitat for Humanity of Omaha,

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Collective for Youth, YWCA, League of Women Voters of Greater Omaha, Together Omaha, Survivors Rising, Policy Research and Innovation, Coalition for a Strong Nebraska, Visiting Nurses Association, Heartland Workers Center, Inclusive Communities, and Immigrant Legal Center have all sent in letters for the record in support.

CRAWFORD: Thank you. Now we will move to proposed rule 14. Senator Bolz.

BOLZ: Thank you. I am Senator Bolz. That's K-a-t-e B-o-l-z, and I have a rule change proposed regarding the point of personal privilege. I propose a five-minute time limit on motions of personal privilege. I believe that five minutes is sufficient time for the purpose for which the point of personal privilege motion is intended. And it is in line with other speaking limits within the rules. I'll note that the point of personal privilege motion has precedent over all other questions, except motions to adjourn. So the current unlimited or undefined time frame for such a priority motion is not ideal for a deliberative body. And so I would respectfully request that you consider the proposed rule change of five minutes for this point of personal privilege.

CRAWFORD: Thank you. Any questions? Yes, Senator Erdman.

ERDMAN: Thank you, Senator Crawford. Senator Bolz, have you seen a time when personal privilege went on for longer than five minutes?

BOLZ: I have.

ERDMAN: Have you?

BOLZ: Um-hum.

ERDMAN: Has it happened since I've been here?

BOLZ: It has.

ERDMAN: OK. Guess I wasn't aware of that.

BOLZ: Um-hum.

ERDMAN: Thank you.

CRAWFORD: Thank you. Any other questions? Thank you for your testimony.

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BOLZ: My pleasure.

CRAWFORD: Are there anyone, anyone wishing to speak as a proponent of rule change 14? Anyone wishing to speak in opposition to rule change 14? Anybody wishing to testify in a neutral capacity to rule change 14? Would you like a closing? OK. That will end our hearing on rule change 14. We'll move now to a hearing on proposed rule change 15. Senator Kate Bolz.

BOLZ: I'm back and I'm still Kate Bolz, for the transcribers, K-a-t-e B-o-l-z. This proposed rule change is a proposal that would deem full and fair debate as eight hours in General File, four in Select File, and four in Final Reading. The legislation or the rule change clarifies expectations and assures that each bill is treated the same in terms of process. I think in a Unicameral Legislature, where we consider the second house to be our citizenry, it's important to have full and fair debate that our public can hear and follow. Our debates are televised on NET and I think it's in the public-- public's interest to ensure that each issue up for consideration receives full attention from the body and the public, and that sufficient time for discussion to improve any bill with the input of the membership of a whole-- as a whole is provided. I appreciate that this, this issue has changed over time. In the past the rules have listed eight hours for each stage of consideration. In 2002, that was removed from the rules and left to the discretion of the Speaker. Different Speakers have adjusted this in different ways. Senator Hadley reduced the length of time for what was considered full and fair debate on General File from eight hours to six hours, and that was again changed under Speaker Scheer's leadership. And I can appreciate that there are multiple ways to handle full and fair debate on the floor, but one of my main concerns is that this should be tran-- a transparent and deliberative body and that short time frames on controversial bills don't allow the public to fully understand or engage. And it doesn't always allow opportunities to understand multiple points of view or, importantly, in my point of view, discover opportunities for compromise. So I believe the practice of eight hours on General File, four hours on Select File, and four on Final Reading would serve this body well, would ensure consistent practice, and full and fair debate. And I appreciate your consideration of this rules change.

CRAWFORD: Thank you. Senator Erdman.

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BOLZ: Thank you, Senator Crawford. Thank you, Senator Bolz, for submitting this. So let me be clear. You're, you're gonna-- your intention is for four hours on Final Reading as well as, as Select?

BOLZ: Yeah. And that's-- it's a little higher standard than has been used in my time during the body.

ERDMAN: OK.

BOLZ: But I think the goal here is that we have full and fair debate at every stage, and that's, that's why I picked eight, four, and four.

ERDMAN: So eight hours, four hours, and four hours, 16 hours. That's two, that's two days?

BOLZ: Um-hum.

ERDMAN: And we have-- I don't know what priority motions are, 110?

BOLZ: Um-hum.

ERDMAN: Forty-nine senators and then the committees?

BOLZ: Um-hum.

ERDMAN: So if we would go two days on each one, how many of those are we gonna get done? And then when we get to the short session next year when we have 60 days and now we're doing 16 hours, this looks to me like it's very, very prohibitive on getting anything accomplished if we have this many hours of debate on each-- at each section, each turn of the bill. That's amazing, 16 hours is. You know, so right now it's up to the discretion of the Speaker.

BOLZ: Um-hum.

ERDMAN: And this Speaker has chosen in the past, I don't know what he's gonna do this year, hasn't announced it, but it's three hours. Then if you have 33 votes, bring it back for another three hours. And then it was three hours total and then an hour and a half. And so, in your opinion, those weren't sufficient amount of time?

BOLZ: If I can, can I respond?

ERDMAN: Um-hum.

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BOLZ: So you, you brought up a couple of different subjects there. The first is sort of the question of efficiency and how we manage the workload.

ERDMAN: Right.

BOLZ: And, and I appreciate that. And I think there is a tension between efficiency and democracy. And, and I, I think that this proposed rule changes middle ground. We, we don't debate things unendingly. There are time frames that we put on bills. But I do think it's important to not prioritize efficiency over participation and democracy and deliberation and debate. I would also share that-- you know, the, the Speaker does have, even under this proposed rule change, the Speaker would continue to have authority over the agenda. And so if a bill is controversial and is being debated in depth, the Speaker could still make choices about when, where, why, and how to schedule it. So those are some of my thoughts about your efficiency question. As it relates to what has happened in the past and whether or not that was sufficient, I would argue that there are-- there were some circumstances in which not everyone who had something to say on the bill had an opportunity to say it and that there were circumstances in which, with more debate, people would have both understood the pol-- public policy issue better and perhaps even identified a compromise. But because people were, were limited by the hours afforded to the bill, sometimes that debate didn't even occur because people were afraid that we'd hit a time limit and that you would, you would ruin someone's chances to get a bill passed. And so I, I think setting some parameters is useful, helpful, and important.

CRAWFORD: Thank you. Yes, Senator Scheer.

SCHEER: Thank you. And I apologize, I was not in the room for rule 14 change. And so my comments are going to be out of, out of sequence in relation to that. But I would only point out that I, I understand the well-intended nature of Senator Bolz on the personal privilege. But when you put it in rule like that, you take away all flexibility. And there were occasions, for example, at least in the last two years that I, I would-- I have been Speaker, and one notable one, for example, was when Senator Pansing Brooks and Senator Brewer had some information regarding Standing Bear and some other things. And it took, I would guess, well over 15 minutes to make that presentation. It was a powerful presentation, but that was really the only avenue that we had to allow them to do that was a point of personal privilege. And by adoption of this rule change, that would not have

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taken place. And I think those are the things, some of the important times that we do deviate from that. I will tell you from a matter of normalcy, at least in the last two years and I would assume before that, when somebody does ask for a-- some personal privilege, our clock is started at five minutes. And some of you may not have noticed but there have been occasions when I have stopped the individual and said, I'm sorry, your time is finished, and we've moved on. But it wasn't required. And so I think-- and my comments would be the same in relationship to item 14 in the full and fair debate. When you put numbers in rules, when you put time in rules you have taken away the flexibility in order to make things work. And as much, I don't disagree with Senator Bolz, democracy is important, but so is efficiency. We have a limited amount of days, limited amount of hours in order to make sure that everyone-- to me it is important to have full and fair debate on a bill. It is also very important to me to make sure that everyone's bill gets fair and full debate. And by setting time limits too prohibitively, there will be a number of senators that will never get the opportunity at all to have their bill debated. There is a fine line there. But from my perspective, when you, when you would put these time limitations in you will have a limited amount of bills that truly will be heard. It's just that simple. And whatever response you'd like to make.

BOLZ: OK. I appreciate your thoughts, Speaker Scheer. To take one issue at a time, regarding the point of personal privilege, I, I think it's important maybe to refocus on what's already in the rules regarding the point of personal privilege. And certainly I appreciated what Senator Brewer and Senator Pansing Brooks had to say regarding Standing Bear. It, it was heartwarming and a, and a nice conversation. But I would ask the Rules Committee to consider whether or not that example actually fits the rules of the personal privilege according to our Rule Book. "Personal privilege shall be, first, those affecting the rights, dignity, and integrity of the Legislature collectively; and second, the rights, reputation, and conduct of members individually." And so the way I read this rule as it's already in our Rule Book, it's intended to articulate when, for example, we needed to address what some of us perceive to be inappropriate behavior of Senator Kintner when he was making inappropriate public remarks. Those things represent the integrity, integrity of the Legislature. Presentations around issues such as Standing Bear maybe are perhaps better served through a press conference or a proclamation or, or some other function of the body. And so I, I guess I would argue that if we're keeping a focus on the personal privilege as intended, some time

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limit would be appropriate. Perhaps ten minutes is better than five, and I think that's for the Rules Committee to negotiate. The other thing I would note is that I think certainly when you are presiding, Speaker Scheer, you have a good sense of the sense of the body as a whole; what else we have going on, on the agenda; who, who has an opportunity to speak; what a priority issue is. But the presiding officer is often the Lieutenant Governor, who's not a member of our body, who doesn't understand what our priorities or positions necessarily are on any given day. And so I think putting some parameter around the decision making of the Lieutenant Governor, who's often the presiding officers, is, is appropriate and fair.

SCHEER: And I don't dispute that. And I would go back to the rule 14 change because I do believe that was an appropriate-- Senator Brewer is the only Native American in our body. And for him to talk about the dignity and the integrity of a, a person of his race certainly falls well within the realm of a moment of personal privilege. So, you know, and again it's interpretation. But again, setting parameters, putting bunkers on both sides does tighten the ability of flexibility. And the-- I, I will only-- I can only respond that the Lieutenant Governor historically, I think if you would talk to other Speakers as well as myself, the relationship with Lieutenant Governors has always been one of cordiality. And if there is something going on that a Speaker has always had a concern about or wishes to change directions, that Lieutenant Governor has always yielded to the Speaker. If you have something going on in the body that you feel is best represented by yourself being in the chair, I don't know of any time the Lieutenant Governor has not seceded to that, or if there is a problem brewing, that they will not leave the chair in order for the Speaker to try to take that responsibility on at that point time. But Senator Bolz is absolutely correct. It does not-- there is no rule stating that. I guess as best as I can say, it's a gentlemen's agreement and they're only as good as the gentlemen or the gentlewomen that are having that agreement made. So fair enough. I'm not disagreeing. They're, they're-- the rules are not specific that it controls other parties. And I appreciate your comments that at least that I might know what I'm doing, so.

BOLZ: I do think that not putting a time limit does open it up for abuse, and I don't want the circumstance to occur in which a member of the body abuses this privilege so that we are compelled to create a rule. I think creating a fair rule is a better practice. But that is for the Rules Committee to discern. Regarding your comments related to

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flexibility and the cloture rules, you know, I, I appreciate the challenges that come with being the Speaker of the Legislature and managing all of the business in front of the body. I do think that having a clear time limit around the cloture rules is-- it is fair. It ensures fair debate and may actually compel some members to work issues out with people who have a difference of opinion than theirs prior to bringing a bill on the floor, which in a different way creates efficiencies for this body. So I, I do continue to stand by the proposed rule change related to the cloture hours.

CRAWFORD: Yes. Senator Erdman.

ERDMAN: Thank you, Senator Crawford. Senator Bolz, when I asked the question earlier if anyone had went more than five minutes, I was remiss in reminding the people in the room that last year, when I did a point of personal privilege, when I got to one minute, Speaker Foley said one minute-- President Foley said one minute. And when it got to be five minutes he said time. And so I had assumed that there was a five-minute limit. I didn't look in the book but I got five minutes. That was last year. And the year before I did personal privilege and I didn't get to the five minutes. But, but he called me on it and he called me at one minute and then you're done.

BOLZ: Um-hum.

ERDMAN: So he did, he did use that discretion.

BOLZ: Um-hum.

ERDMAN: So that's why I asked if anybody had exceeded the five minutes, because in my understanding, I didn't get to go more than five minutes and I didn't know anybody else did.

CRAWFORD: Anyone? Yes, Senator Hansen.

M. HANSEN: Thank you, Senator Crawford. And thank you for bringing these couple proposals, Senator Bolz. One thing I'm just kind of throwing out there, it's more of a statement but just kind of for us to ponder over, the Rules Committee, and I want you the opportunity to respond to, in terms of determining what's full and fair debate I think it's always important for us as a body to just remember the speed and the pace at which debate takes place and how much we as individuals get to talk. So when we're talking about four hours on Select File, if that's-- that would be, if my math checks out, that

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would be ever-- everybody in body, save one person, speaking once. And so when we're talking about these numbers-- you know, occasionally it's like-- you know, somebody will call my office and be frustrated that we spent three hours talking on a bill. I might have been the 35th person in the queue and I might have barely gotten to speak. That's something I try and reframe with my constituents is-- you know, we spent a lot of time talking but it's each of us using-- you know, just one turn, turn at the microphone can take up multiple hours very quickly. So that's something I bring up to kind of for us to reflect on upon Exec and offer you the chance to respond to.

BOLZ: I, I think that's a-- it's a useful and helpful insight and part of the conversation. The thing it brings up in my mind is some of the decisions that we are making are things such as what fair sentencing is, which could impact ten years of a person's life. So when we think about the weightiness of the decisions that we have to make, that time frame, I think, becomes even more important for us to spend.

M. HANSEN: Thank you.

CRAWFORD: Other questions? I have a question. Do you expect that there would be fewer filibusters if the time frame was laid out in this way?

BOLZ: Senator Crawford, I, I really don't have any ability to know what the motivations or decisions of this body may or may not be. I think if there are controversial bills brought there will be filibusters and cloture votes. But I do think that it, it solves for someone bringing-- you know, thinking twice about bringing a controversial bill that, that has not been completely well vetted. And I do think if something controversial, important, and weighty is brought to the body, 16 hours of debate total is, is maybe not too much to ask if we're talking about something of sincere consequence. So I can't-- I--

CRAWFORD: Sure.

BOLZ: --the short answer is I can't predict--

CRAWFORD: Sure.

BOLZ: --what the body would or wouldn't do.

CRAWFORD: All right. Thank you. Any other questions? Thank you.

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BOLZ: Thank you.

CRAWFORD: We'll now accept testimony in support of rule change 15.

NATHAN LEACH: Madam Chair, members of the Rules Committee, my name is Nathan Leach, N-a-t-h-a-n L-e-a-c-h. I'm speaking in favor of proposed rule change 15, offered by Senator Bolz. Last session, LR1CA, a constitutional amendment offered by Senator John Murante of Grant--Gretna which would require the use of licenses in order to vote was debated in the Legislature. Shockingly, after debate, the proposal for-- the proposal-- after debating the proposal for less than an hour, a motion to invoke cloture was filed. To pass cloture 33 votes or two-thirds of the Legislature must vote in favor versus the 22 vote needed to pass the bill into law. The rule dictates, as you know, full and fair debate prior to invoking cloture. Last session the motion to invoke cloture has typically been considered after about five hours of debate. However, the Speaker stopped scheduling bills after only three hours, rescheduling them only if proponents can prove they have enough votes to defeat a filibuster. At its core, filibustering bills is undemocratic. To require a two-thirds vote runs counter to the basic principle of majority rule. The Nebraska State Constitution is clear, 25 votes, not 33, are required to pass a bill into law, not to mention filibustering wastes time and energy, tax dollars, and ultimately damages the ability of our Unicameral to legislate on behalf of Nebraskans. Because of this, past Speakers made it difficult to filibuster by requiring at least eight hours of debate on General File, six hours on Select File, and four hours on Final Reading. That's 18 hours total. With this daunting requirement it was a political feat to filibuster a bill. Now with only eight hours of debate or three hours if you can't prove you have the votes, some bills last session were accidentally filibustered simply because members were sincerely trying to amend or understand the bill on the floor. As a result of the Speaker lowering the number of hours to achieve a 33-vote requirement, there is now a much higher level of obstruction in the Unicameral than in past years. At the faintest smell of controversy, a member can gather 17 votes and kill a bill without breaking a sweat. Granted, the 33-vote threshold for cloture is important, this threshold protects the ability of members to debate without fear of an overzealous majority shutting them up. The ability to speak and offer amendments is a core right held by lawmakers. Furthermore, comprehensive debate helps produce good legislation and is prudent in one-house body. My respect for this principle puts me in the uncomfortable position of supporting a two-thirds vote to end

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debate while also not supporting the use of this rule to purposely kill legislation. To overuse this rule, to deliberately abuse it in order to kill legislation, runs counter to the ideas of an efficient and democratic Legislature held by U.S., U.S. Senator George Norris, the founder of the Unicameral experien-- experiment. This new trend is alarming. More alarming is the unprecedented ruling made last year on LR1CA. Voting on cloture after less than an hour of debate signifies the Legislature's complete surrender to the new order of business. This ruling was also a blatant abuse of the motion to invoke cloture, which, according to the legislative rules, is only to be used after full and fair debate, not after parties have agreed to allow it. The tactic of invoking cloture before debate or after very little debate is commonplace in the United States Senate which invokes cloture without having to do the hard work of actually filibustering. In Nebraska we need to continue to discourage filibusters by making it a challenging and politically costly move. Senator Bolz's amendment does just that. Our nonpartisan institution cannot survive unless there is balance, fairness, and a willingness to listen and work together. Setting a 33-vote threshold to advance legislation after an hour does not invite compromise or deliberation but, rather, signifies the potentially growing partisan and ideological shift within the Unicameral. I put together the numbers: in 2017 to 2018 there was 44 votes for cloture on 25 bills; 2015 to '16 there was 35 votes for cloture on 25 bills; 2013 to '14 there was only 14 cloture votes on 12 bills; and 2011 to 2012 there was only 5 cloture votes on 4 bills; and lastly, from the date-- data I compiled, from 2009 to 2010 there was 4 cloture votes on 4 bills. The only two factors that I can surmise are contributing to the increase in total number of cloture votes is term limits and also the trend of lowering the number of hours to successfully filibuster. By making it easier to achieve a cloture vote, it-- from what I can see, it actually incentivizes the use of, of filibustering and wasting time to get to that time limit. So--

CRAWFORD: Thank you. Any questions? Thank you for your testimony.

NATHAN LEACH: Thank you.

CRAWFORD: Anyone else wishing to speak in support of rule change 15? Anyone wishing to speak in opposition to rule change 15? Anyone wishing to speak in a neutral capacity for rule change 15? Would you like to close? No. All right. That will end our hearing on rule change 15. We'll move on to proposed rule change 16.

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BOLZ: Good evening. I'll try to be quick. I know this is your last rule to consider. This, this rule-- proposed rule change would require that a unanimous consent motion bust-- must be repeated twice by the Clerk before a motion is deemed approved by unanimous consent. The unanimous consent motion is one of our only passive instead of active motions that move forward. In other words, it's one of the only motions that moves by no one doing anything. And because of that, I think sometimes it can, can be used in a way that doesn't have the, the full participation of the body. And I guess to speak more plainly, I've had a couple of circumstances in which someone moved to, to do something by unanimous consent that I either wasn't aware of the procedure on the floor, perhaps when we're reconvening after a break, and there have been circumstances in which I truly did not hear the motion, that I really couldn't hear on the floor, given the floor's acoustics, of the motion to be deliberated. And because you have to proactively do something, if you can't hear the motion you can't respond. And so I think a fair way to handle this situation and prevent any sort of gotcha motions on the floor is to have the motion repeated twice so that everyone's fully aware of the action happening on the floor.

CRAWFORD: Thank you. Any questions? Senator Hansen.

M. HANSEN: Thank you, Chairperson Crawford. And thank you, Senator Bolz, for bringing this. Just to kind of add some legislative history, I appreciate you doing this because last year somebody filed a unanimous consent to bracket on my personal priority and I objected. And I honestly couldn't tell you, outside of me and the person who filed the motion, if anybody else had realized what had just happened. And that was something I had the luxury of being aware of just because I had seen a motion pad walked past me. I had the wherewithal to ask the Clerk what it meant. But that, that was one of the instances where, as you described, it appeared and wanted to give a specific example for illustration for anybody who was interested. And you're welcome to respond.

BOLZ: I appreciate that. I, I-- two quick comments. One is, I often don't hear very well in this building, and I just don't think that anyone should have a motion move forward on a bill that they've worked on with their stakeholders simply by a mistake or simply because they couldn't hear. The, the other comment I'll make is that I, I think that sometimes a senator who is doing his or her job in good faith, meaning they are describing a provision of the bill to another senator

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or working with an advocate in the lobby or reviewing a statute so they can answer another senator's question with confidence, someone doing that work of a state senator may not hear a unanimous consent motion because they are otherwise engaged doing the work of the body. And so I think this is a, a very simple way to handle that set of circumstances.

CRAWFORD: Yes, Senator Lathrop.

LATHROP: I have a question. Is there a reason to permit this in any circumstance other than making a motion about your own legislation? In other words is the, is the cure to say that a unanimous consent motion is only an order if it's about your own legislation? So if you want unanimous consent to send your-- to take your bill off the agenda or--

BOLZ: Um-hum.

LATHROP: --unanimous consent to move it to a different day or kill it or withdraw it or--

BOLZ: Um-hum.

LATHROP: --anything in that order, it would be in order, but if it's about somebody else's bill it wouldn't be?

BOLZ: I, I think that's a good solution. I hope the, the Rules Committee deliberates it. The, the only circumstances I can think of are, are probably exceptions to the rule. If you've committed to bring a bill on the floor because you've made promises to your district but you know that it is time to move on, perhaps you don't want to be the person who makes the motion to move on, or perhaps there's a circumstance in which the introducer, for whatever reason, is not on the floor that day. I, I don't--

LATHROP: That all, that all seems to me to be stuff you can work out with the Speaker.

BOLZ: Probably so.

LATHROP: To me, what you're trying to work around with this rule is somebody trying to catch you off guard and have your bill killed while you're in the restroom,--

BOLZ: Right.

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LATHROP: --out in the Rotunda,--

BOLZ: Right.

LATHROP: --off the floor, and maybe you ran down to your office. It doesn't even have to be the bill up for consideration for that motion either.

BOLZ: Right.

LATHROP: OK.

BOLZ: I, I think that, that could be, that could be a solution to the, to the problem I'm trying to address.

CRAWFORD: Good. Any other questions? Thank you for--

BOLZ: Thank you.

CRAWFORD: --rule proposal. Let's see if there's anyone who wishes to speak in support of proposed rule change 16? Anyone wishing to speak in opposition to proposed rule 16? Anyone wishing to speak in a neutral capacity to proposed rule 16? Any closing? No. Thank you. That will end our hearing for proposed rule 16, and that will end our public hearing of rule change 16. I propose we take a short break and then come back for an Exec Session.