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Rules Committee December 4, 2020
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VARGAS: Senator Howard. I see you, Senator Crawford, Chairwoman Crawford.

CRAWFORD: Good to see you. Good to see you, yes. So Du-- Mr. Jones, will you just let us know when everybody is in?

DUSTIN JONES: Yeah, I can do that. I'm watching the participants window right now, and they're coming in slowly but steadily.

CRAWFORD: Great, thank you. I'll just start as soon as you say people are in. All right, great. Looks like we have most people who are in. Welcome, everyone, to the Rules Committee briefing on racial impact statements. Before I go any further, I want to alert you that-- to the fact that this briefing is being recorded and will be transcribed. My name is Sue Crawford, S-u-e C-r-a-w-f-o-r-d, and I chair the Rules Committee. First of all, I would like to thank our host, Creighton University, and specifically Dustin Jones, who has been so helpful in setting up this interim briefing webinar for us today. This Zoom briefing has been organized as a webinar. Members of the Rules Committee and invited testifiers will appear as panelists who can be seen and heard, and other attendees will be observers. I've disabled the chat mode for observers, but the left-- left the Q&A mode operable. I encourage all panelists to keep muted and off camera when you are not speaking. The Rules Committee members can use the chat function during the Q&A section to let me know you have a question, so basically use the chat function as a queuing mechanism. As would be the case in a hearing room at the Capitol, only the members of the Rules Committee will ask questions on the record. Others who are on the webinar may submit questions and that-- that can be answered after the adjournment of the formal briefing. The recording will stop at adjournment of the briefing. However, I, and whoever else wishes to do so, will stick around to answer other questions after the formal briefing, just like we would if we were milling around in the hearing room at the Capitol. With that long introduction, let me turn to the Rules Committee members who are able to be with us today and have you introduce yourself, and I will just call on you in the order that I see you on my screen. So that starts with Senator Hansen.

M. HANSEN: Thank you. Thank you, Senator Crawford. Everyone, my name is Senator Matt Hansen, and I represent District 26, which is in northeast Lincoln.

CRAWFORD: Thank you, Senator Hansen. Senator Howard.

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HOWARD: Hi. I'm Senator Sara Howard. I represent District 9 in midtown Omaha.

CRAWFORD: Excellent. Thank you. Senator Scheer.

SCHEER: Thank you, Senator. Jim Scheer from District 19: Madison County, a little bit of Stanton County. Thank you.

CRAWFORD: Excellent. Before we go any further, just checking in with my Rules Committee members, are there any questions about how we're proceeding? Great, awesome. All right, this briefing continues work on an interim study brought to the Rules Committee last interim, LR217, introduced by Senator Vargas. That interim study asked the Rules Committee to examine the feasibility of developing a process for the preparation and consideration of racial impact statements. We had some discussion of this question last interim. And over this interim, Senator Vargas and I have worked with members of the Creighton University Social Science Data Lab to develop a pragmatic framework for the development of these statements so that the Rules Committee next year can revisit this question with more clarity as to what this rule change would entail. Since Senator Vargas was the introducer of LR217, I will begin the briefing by asking him to speak to the committee. Senator Vargas, you're welcome to take the virtual floor here.

VARGAS: Thank you very much, Chairwoman Crawford. I will say this on my behalf. We will-- we will miss you and your leadership--

CRAWFORD: Thank you.

VARGAS: --along with the other-- the other individuals that will be leaving us. But as Chairwoman, we appreciate your leadership as Rules Chair. Good afternoon, members of the committee and Chairwoman Crawford. My name is Senator Tony Vargas, T-o-n-y V-a-r-g-a-s. I represent District 7 in the communities of downtown and south Omaha. I would like to thank all of you for attending this briefing and those that are viewing this briefing, say special thanks to Chairwoman Crawford for her leadership on this issue and convening this briefing. Now I understand that change is sometimes hard and takes time, so I'm glad to be here again talking with you about racial impact statements, why I believe they're an important tool to us as legislators and lawmakers, and how they logistically and realistically can be put together. We have had a few hearings and discussions with this committee over the past years regarding racial impact statements and

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specifically this rules change and legislation. But in case you need your memory jogged, I'll give a very brief overview and summary. Later, testifiers will provide the committee with actual racial impact statements for bills they were introduced-- that were introduced to the Nebraska Legislature this past year. Simply put, racial impact statements are a tool that will give us, as lawmakers and policymakers, important data to make informed decisions as we consider, debate, and enact public policy. In 2008, our neighbor to the east, Iowa, was the first state to require what they call "minority impact statements" as part of the fiscal notes for certain legislative bills. Their law was passed as a response to the growing concern that their corrections and prison population was disproportionately full of African American and Latinos. Now Nebraska has this problem as well, and one way we can work on addressing it is by having nonpolitical information about how policies would or wouldn't affect minority or underrepresented populations. Now, since Iowa pioneered this concept, a handful of other states have also passed similar legislation. Connecticut, Oregon, and New Jersey have racial impact statements now, and bills have been introduced in Arkansas, Florida, Mississippi, and Wisconsin recently. Now what I proposed previously and submitted to the Rules Committee were two separate rule changes. The first, in Rule 3, required a racial impact statement for any bill or resolution that significantly affects criminal or juvenile law. The second part of this change in Rule 3 allows a bill's introducer or the Chair of a committee where a bill is referenced to request a racial impact statement, regardless of the bill's subject matter. The second rule change, in Rule 5, directed the Legislative Research Office to create a racial impact statement for legislation referred to them by the Referencing Committee. This rule change also outlined the information to be included in the racial impact statement and allowed them to request the cooperation of any state agency or political subdivision as they prepared the statement. Now what I would submit to the committee now is a change to the second part of my rules proposal. Rather than tasking the Legislative Research Office on creating a racial impact statement, we could ask Creighton University Social Science Data Lab, as an example. Senator Crawford and I have worked closely with them over the past several months to talk about the information that would be included in these statements and the logistics behind creating them and getting them accomplished. They would have-- they have been extremely kind enough to put together a few racial impact statements on different subjects, specifically from actual bills that were introduced by senators in this past legislative session. Now those individuals from the Social

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Science Data Lab are here today to talk through these statements and the process that they went through, so please do ask them whatever questions you may have regarding process and feasibility and structure, because I think that they have done a phenomenal job of thinking through and working through that to make sure we are assessing those different components of racial impact statements. Now my thought process on the rules changes in general here are: (1) I don't think we want to trigger a racial impact statement on every single bill, like a fiscal note is required for every single bill. I understand that, but I think here we want to trigger a racial impact statement for the most significant and frequent impacts of this information will only be for specific subject matters, namely around criminal law offenses, sentencing, and other things that are similar to that. (2) We really wanted to work within the longstanding framework of the Legislature's operations by respecting each senator's right to information and a public hearing on every bill while also respecting the role of committee Chairs. And (3) Creighton's Social Science Data Lab is well-- more than equipped to create these racial impact statements. They are a credible source for academic, well-researched, nonpartisan, nonpolitical information which is critical to the credibility of these racial impact statements and how the information is perceived by senators and the public. They also utilize this information-- or this information is received by other public data sets, either nationally or at our state, which I think is also important to not only reinforcing their nonpartisan, nonpolitical information, but the credibility of where this information and data is coming from. The Legislature also frequently works with academic institutions for information that informs our policymaking. It's not the first time; we've done this in the past. For example, the Legislative Planning Committee has had a longstanding relationship with the University of Nebraska-Omaha's College of Public Affairs and research to compile demographic data and research policy across the country. The University of Nebraska also frequently provides economic impact statements on a wide variety of bills and subject matters, which helps us as senators understand the long-lasting impact that legislation can have on our local and state economy. All that said, I want to finish up my introductory remarks here. I want to thank you for taking the time to really dig into the process, the feasibility, and the operations of making a racial impact happen. And this is really informed by the que-- the-- the questions that you provided in our hearing a year and a half ago to nearly two years ago now, which was, how can this be put into implementation? What's the feasibility of doing this? What does it look like to create these statements? And

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what we have in front of you is that process, that work. And I just want to thank-- thank Chairwoman Crawford and-- and those that helped put this together from Creighton University, and look forward to hearing more about that process from those that-- that-- from the Social Science Data Lab at Creighton. And so thank you, and I'm happy to answer any preliminary questions that I can ask. And otherwise, I ask you to save those other questions on process for the Social Science--

CRAWFORD: Sure.

VARGAS: --Data Lab.

CRAWFORD: Excellent. Thank you, Senator Vargas. If any of the Rules Committee members have questions for Senator Vargas on, just type "yes at" and I'll call on you. So I'll give you a minute in case you have any questions. OK, I don't see any. Thank you, Senator Vargas. All right. Next we will hear from Dr. Pierce Greenberg. Dr. Greenberg heads up the Creighton University Social Science Data Lab and has worked with Senator Vargas and I over this interim. I invite Dr. Greenberg to present for-- from your report on this framework for racial impact statements and the examples that you've created. So, Dr. Greenberg, for the purposes of this transcript, please begin by stating and spelling your name. Thank you.

PIERCE GREENBERG: Sure, thank you. So my name is Pierce Greenberg; that's P-i-e-r-c-e G-r-e-e-n-b-e-r-g. And I'm an assistant professor of sociology at Creighton and halfway through my third year already. And so this work is part of a broader effort we have at Creighton to put some of our social science research and skills to-- to public use. And so we're excited to be a part of this process. And I'm going to go through this fairly quickly. We've, I believe, sent out a full report to other Rules Committee members, so I might allude to that a little bit, but I was told to keep it brief, so I will-- I will do that. OK, so let's get to it here. Oh, I should share my screen first. Sorry. OK, can you see my screen OK? OK, great.

CRAWFORD: Yes, yes.

PIERCE GREENBERG: All right, so just a quick overview, some of what Senator Vargas already mentioned, but just that one-- the sort of impetus for racial impact statements, why they matter, why people do them, is that long-standing research shows that there are racial disparities in the criminal justice system. And I think, as social

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scientists and-- and my colleagues who are all involved in the criminal justice program could tell you, the determinants of crime and the determinants of disparities are incredibly complex. But research has shown that laws really matter. The-- the workings of state legislatures and the decisions they make can influence these disparities. And so racial impact statements are meant to just provide lawmakers with information on racial disparities that could result from passing a specific law. And so we were sort of tasked to coming up with what should be contained within a racial impact statement. And as Senator Vargas mentioned, there are a handful of examples to work off of here, including the example from Iowa then having passed that law in 2008. But what we quickly found is that the format of these can vary widely. You have everything from a couple of sentences in a financial impact statement, which is sort of what Iowa has done, to working with universities and doing really complex modeling and forecasting of prison populations and all this stuff. And so we kind of looked at all of those for inspiration. I've talked to a few folks in other states as well. But we developed sort of a road map or a format that we think would work well here in this state. And so as we were doing this-- Senator Vargas alluded to this before-- we had some key considerations, right? I think the first being that these need to be fairly accessible and readable. Legislature-- legislators don't have that much time, right? There's a lot of paperwork that they have to look at and different responsibilities. And so, you know, we wanted these to be quick and easy to read and to glance over and get an idea in a pretty quick way. Second, in constructing these racial impact statements, there were a lot of considerations about data availability, what kind of data exists that could best determine whether there's a racial disparity or a racial impact from a law, and that's a really big deal. What we ended up doing was using only publicly available data. And it's really possible that with more collaboration with state agencies, that there might be opportunities to do something further. But again, these could be developed fairly quickly because it's using publicly available data that anyone can go out there and download right now. And then the last thing we thought about was time and staffing. You know, we recognize that these are something that would have to be created quickly by whoever's doing it. And so we aim to put together a format that someone could do in like a working day, basically. So those are our main sort of constraints or the things that we were thinking about. You know, we have several PhDs right on our team. We could come up with a lot of complex ways and considerations of things to do, but we really felt like-- like-- like these were-- were important to think about. So we included some

examples of these in the report that should have been circulated. I wanted to talk just briefly about some of the elements of these racial impact statements. So we kind of felt like starting with the most important information first, which was, overall, the sort of finding about the racial impact up at the front of the statement. And so it was a little bit backwards here, but that was up front, and I'll go into more detail on that, but the other key components being a quick summary of the bill-- this is similar to what is found on financial impact statements; a quick section on prior research, sometimes this can be helpful-- if there is examples from other states about whatever law is being proposed having a racial impact, this would be a good place to put that, although in several of the cases, we couldn't locate any res-- existing research on these specific laws-- and then a data-and-methods section where we talk about the data that we used to come to the conclusion and the sort of methods that-- that we used. And so I'm going to go into a little bit more detail on the data and methods in the racial impact statement. So within the report, we kind of used two frameworks for looking at racial impact, and these are super common in even just the media and other places. The first is comparing racial group percentages in the criminal justice system to those same racial group percentages in the general population. There was just a report out by UNO about minority disproportionate contact with law enforcement, and this is almost exactly what-- what they did as well, which is looking at, for example, in this bill, which had to do with concealed carry laws, looking at the racial makeup of what we used, which was weapons arrests, compared to the racial makeup of the state of the-- of Nebraska population from the census. Right? And so what this graph would be showing is an overrepresentation, mostly black Nebraskans, who make up 28.9 percent of weapons arrests but only 5 percent of the state's population. The other method we used was not using the state population as a baseline, but using another relevant population for whatever bill is being proposed. In this case, there was one about restrictive housing, and who's in restrictive housing, and whether there's a racial disparity among people with a mental illness in restrictive housing within the prison population. So instead of looking at comparing to the general population, we just compared it to the percent of the total prison population with a mental illness compared to the percent in restricted housing with a mental illness. And we see here that black and Hispanic racial categories are-- are overrepresented in percent of restrictive housing with a mental illness. So there could be a lot of other ways of-- of doing that as well, but for example purposes, that-- that's sort of what we've done. The other really important thing is thinking about

how to describe racial impact, and we kind of went back and forth on this quite a bit. And so I just pulled out one of the statements that we did. I think we did a total of four. And this law had to do with adding exemptions to concealed carry laws. And so we wrote that adding exemptions to existing concealed carry laws could lower the number of concealed carry-- that could lower the number of concealed carry arrests may have a disproportionate impact on black Nebraskans due to their overrepresentation in weapons-related arrests, which is what we-- that graph I mentioned earlier. So black residents make up only 5.2 percent of the state's population, but they account for 28.9 percent of weapons arrests. So additional exemptions to the concealed carry law could disproportionately reduce the number of black residents arrested in Nebraska. And this is really key here, where we add this stipulation that if the arrest trends stay the same, the racial disparity will persist. So to sort of break this down maybe in a simpler way, if a racial group is overrepresented in a criminal offense, then changes to that offense, either easing it or making it more strict, would have a disproportionate impact on that group. But just because there's a disproportionate impact, does not reduce or eliminate the racial disparity. So we put that in there as a caveat to sort of be-- be mindful of, and I can talk more about that if there's any questions. But there are some laws that may also eliminate the disparity. Right? So the law on restrictive housing said that people with-- it would eliminate there being people in restrictive housing with severe mental illness. So this disparity, this racial disparity of people in the general population-- prison population compared to restrictive housing population would be eliminated because there wouldn't be people with severe mental illness in restrictive housing. So it's really important, sort of, how those things are-- are communicated, and-- and we felt it important to-- to highlight that as well. So I think I-- I'm at the end of my time here. You probably have some questions for me and also for other faculty that helped consult on this. And there's a link to our website, socialsciencedatalab.com, if you want to learn more about what we do. So thanks a lot.

CRAWFORD: Excellent. Thank you, Dr. Pierce. So I did see Senator Scheer raise his hand, but right before we move to questions and answers, what I'd like to do is have the other members of the Social Science Data Lab come up to the hearing table. So I'm going to have you go ahead and turn your videos on and introduce yourselves, and remember to state and spell your name for the transcribers. And then when we go through questions and answers, then anyone on the group can feel free to answer. But do please state your name before you answer,

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so-- and those of you who are Rules Committee members, I have the chat open. You can feel free to just type "I'd like to ask a question" or "yes" or anything in the chat and I'll call on you after I call on Senator Scheer. But first let me open the floor to the others, and I'll just call on you in the order you appear on my screen. So the first is Dr. Dawn Irlbeck. And you'll have to unmute.

DAWN IRLBECK: Thank you. I-- hello. I am Dr. Dawn Irlbeck. My name is spelled D-a-w-n; Irlbeck is I-r-l-b, like "boy," e-c-k. And I work primarily on criminal justice issues and the intersection of-- of criminal justice policies and programs and racial and ethnic minority groups.

CRAWFORD: Excellent. Thank you, Dr. Irlbeck. Now we have Dr. Meyer.

ERIC MEYER: Hello, everyone. My name is Dr. Eric Meyer, E-r-i-c M-e-y-e-r. I'm a resident system professor here at Creighton. I'm halfway through my third year as well. I'm in the criminal justice program. My primary area of research is on prisons and incarcerations, as well as policies that affect offenders. And I'm also a former police officer in Lincoln and in Omaha.

CRAWFORD: Thank you. Thank you, Dr. Meyer. Dr. Murray.

REBECCA MURRAY: Hi. My name's Rebecca Murray, R-e-b-e-c-c-a M-u-r-r-a-y. I'm a professor of criminal justice, as well as an associate dean in the College of Arts and Sciences, and I research the effect of geographic place on crime, but also teach the effect of race on crime as well.

CRAWFORD: Excellent. Thank you, Dr. Murray. OK, now, Senator Scheer, we'll come back to your question, if you want to just go ahead and unmute yourself and state your question.

SCHEER: Thank you, Senator. In the review of how the letter or the portion would dictate the possibility of a biased-- I'm curious to the extent that you were-- the original report shows that he was going back into determining not only those in prison with gun-related offenses, but if-- if the bill-- and in this case, the bill is very specific to those with a concealed carry permit, why you are going into a broader depth than just those that it would have an impact on, meaning those with just a concealed carry violation.

CRAWFORD: Thank you, Senator Scheer. Dr. Greenberg.

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PIERCE GREENBERG: Sure, this is Pierce. Yeah, that's a great question, and I'm glad you asked it because one of the challenges that we address a little bit in the report is getting that data. And oftentimes you'll have a bill-- so for context-- maybe those that are listening that haven't read over what this bill was about-- it's-- it refers to the transportation of firearms in cars and, you know, allowing for them to be properly stored in a case and some of these things. I'm not going to know the specifics off the top of my head, but this is a very specific scenario and there's no way we would be able to have data that would show who exactly was arrested for this exact type of concealed carry violation. And so oftentimes with these reports, and this is something that-- not just that we've encountered but it's encountered in a lot of places, is we just have to go with the sort of best available data we have. And even-- to your point, even this publicly available data on weapons arrests is incredibly broad, right? That includes a big category and it's not broken down. Perhaps state agencies have this information and is something that, you know, if these reports were produced in collaboration with those agencies, that we could be more specific on. But I think in each of the examples we presented, the data is-- is-- is limited, but that I think the stance of not just us, but what other people have talked about is that some data is better than none. And so I think we try to work with the best available data that we have, but that those limitations should be discussed in the statement, which is what we-- we tried to do.

CRAWFORD: Thank you, Dr. Greenberg. Would anybody else care to comment on that question of our panelists who are at our hearing table? OK. So again, if there are-- just checking-- any Rules Committee members who have other questions, raise your hand or put something in the chat here. I'll wait just a second. So I'll just ask a question while I'm just waiting to see if any other questions come up. So in this process, you were using publicly available data, so we did not access data that Legislative Research aides or agencies might have available. We just saw what could we do just with publicly available data, isn't that correct? Excellent. Thank you. All right. Let me see. Senator Scheer, did you have another question or is your hand just up from before?

SCHEER: No, I-- I did have another question.

CRAWFORD: OK. All right.

SCHEER: And it may not be necessarily directed at the committee. It may be more to Senator Vargas to the extent-- and perhaps I'm using an erroneous comparison, but we talked-- we have a financial impact on bills. And if we are going to have the-- this impact as well, we have the ability to challenge that financial feasibility, how-- how is it imagined or would this work to challenge if you are in disagreement with the assess-- assessment by that report?

CRAWFORD: All right, great question. Just because we're following regular committee protocol, I guess I-- I won't necessarily call on Senator Vargas to come up and answer that question. I guess I will ask Dr. Greenberg, if you're producing these statements and a senator would come to you after the statement is produced and say here is evidence that contradicts your racial impact statement, would that be something that you could see yourself revisiting the racial impact statement and presenting a new one? That's basically what happens with fiscal statements. The Fiscal Office creates it. If somebody has a challenge, it might get-- it might get updated. So I'll let you answer that question, Dr. Greenberg, give your sense of what that would look like.

PIERCE GREENBERG: Yeah, I-- I mean, I think that that makes a lot of sense. It's interesting, the different ways that the racial impact statements have taken different formats in-- in different states. You know, sometimes, this is something that sentencing commissions have done on their own. Other way-- other times, it's been actually laws, in this case, rules. And so, yeah, I mean, I think there are different institutional formats for that to take shape, and so I would assume the other-- the similar rules would-- would apply to these, yeah.

CRAWFORD: Excellent. Thank you. I see Senator Hansen has a question. Go ahead and unmute yourself and you can state your question.

M. HANSEN: Thank you, Senator Crawford, and thank you to all those from Creighton and the researchers who had worked on this. My question is, and I-- I hesitate a little because I'm still trying to frame it in the right way, but I guess when we look at a racial impact statement, obviously the intent is to kind of identify areas where we think there'll be, like, disparate impact and account for that. My question is, how do you, when you're preparing the statement, kind of account for the different layers and systems that build to that disparate impact? Like, for example, with the criminal justice system, I think about, you know, how much of criminal justice is prosecutorial discretion. And when Nebraska has-- you know, half the state's

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population lives in counties that are-- have just three county attorneys versus the other 90 that have the rest of the state, how would you kind of factor in some of those more local impacts or kind of other systems in-- in play?

CRAWFORD: I'll let you guys decide who answers that, just state your question-- state your name, I mean, before you-- before you answer.

REBECCA MURRAY: I can take that one. Rebecca Murray. And, you know, both-- thank you, Senator Hansen. And both to yours and Senator Scheer's question, I would just say that racial impact statements, unlike financial impact statements, aren't meant to be numerically predictive. So in other words, we won't say that we're expecting a, you know, 0.75 percent decrease in the disproportionality of a particular arrest. These are intended to be used-- used to help legislators be more thoughtful about passing laws. So to your point, absolutely, particularly in criminal justice, there are a number of different factors that would play into disproportionate contact, arrests, you know, things like geo-- geographies, different areas. And without a lot of information and probably years of research, we wouldn't be able to answer that with any good validity. Rather, I would just say that these are really meant to be able to give, again, legislatures-- legislators a tool to-- to think about the potential disproportionate impact of a law prior to passing that, rather than to say we expect that there's going to be X, Y, and Z number of impact from this-- from this law.

CRAWFORD: Thank you, Dr. Murray. Anybody else on the-- from the panel want to speak to that question before I move on? All right. Excellent.

M. HANSEN: Senator Crawford.

CRAWFORD: Yes.

M. HANSEN: Just if-- if it's all right to ask a follow-up question?

CRAWFORD: Yes, go ahead--

M. HANSEN: Perfect.

CRAWFORD: --Senator Hansen.

M. HANSEN: Perfect. Thank you, Senator Crawford. I guess following up with that, so just-- and this is more of a framing device. So do-- is the view of racial impact statements-- so kind of like-- unlike fiscal

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notes where they're viewing the prospective change that the bill would have, are they more attempting to kind of capture a current snapshot of the subject matter? Is that a fair way of framing that?

CRAWFORD: Dr. Greenberg, do you want to answer that? Is-- is it-- is it about the potential change as well as a snapshot--

PIERCE GREENBERG: Yeah, so--

CRAWFORD: --with the other?

PIERCE GREENBERG: No. Yeah. I mean, I think, given the data, it has to be about a snapshot, at least the way we've set it up. I spoke at length with some folks at Florida State who were helping their state legislature, and they have an incredible amount of data on sentencing and all this other stuff where they could actually put together models to show, if this law were passed, here's the trend in how racial groups in the prison population would be projected out to 2025 and 2030 also. You know, that's-- that's really in depth. It's something that, given the information or data we're working with, we're not able to do. But I don't think ours can really compare to what that's trying to do. But I think that's sort of an outlier as well. It-- well, yeah, I could-- I could talk more about that in the informal portion if you wanted, their experience in Florida. But, yeah, I would say ours, I think, is more of a snapshot. And I think one real quick thing that we didn't mention before is that, you know, we had talked about this in our discussions, is that I think one thing that's been documented in the criminal justice system before is that a lot of these consequences or these disparities are things that were unforeseen. Right? And that just this bit of-- piece of information that could get people thinking about the racial disparities maybe could lead to more research or discussion or more in-depth stuff about it. But I think it's just meant to be, like Rebecca said, a piece of information for legislators to consider. Right? It's not a recommendation about what to do, what not to do, but another piece of information to consider when approaching these laws.

CRAWFORD: Thank you, Dr. Greenberg. Senator Hansen, do you have another question?

M. HANSEN: No, thank you. That-- that was--

CRAWFORD: Oh, OK. All right. Thanks. Excellent. I'm just checking raised hands here. All right. Anybody else on the Rules Committee have

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a question that you want to raise? All right, looks like I have no more questions from the Rules Committee, so I want to again thank the testifiers who came today and thank Creighton University for hosting us. What's going to happen now is I'm going to adjourn the Rules Committee hearing. I'm going to turn off the recording, and then I'm going to open the Q&A to see if any observers have questions. And anyone who is a panelist, who wishes to stay for this informal discussion, is welcome to do so, but at this point I'm going to close the interim briefing.

SCHEER: Senator Crawford, could I get--

CRAWFORD: Oh, yes. Yes, go ahead.

SCHEER: Could I just get-- get one more in?

CRAWFORD: Absolutely. Yes, yes. Go ahead, Senator Scheer.

SCHEER: Then listening to the last discussion, if the impact is basically just a snapshot of what is going on now, is it-- then it is not a projection of what is going to be happening because of the bill? I-- I'm a little confused because I-- my assumption was that the impact is talking about the impact that the bill would have on whatever racial disparities that either exist now and would be deepened or do not exist and could become. So if-- if we're talking about just a snapshot based on what the projected bill deals with, is one thing. Is it a projection of what will happen if the projected bill is passed?

CRAWFORD: Dr. Irlbeck, I see you have your hand up to respond.

DAWN IRLBECK: Yeah, Senator Scheer, that's a very good follow-up question, and I-- if I may elaborate a bit on what Dr. Greenberg said, with your permission, Dr. Greenberg, I-- I believe what he was really emphasizing is we can't guarantee that there will be a dis-- you know, a dis-- a reduction in the-- in the racial and ethnic disparity. However, we-- we do say in the report, if these-- for example, if these arrest trends that we're giving you, you know, a snapshot of, or if these incarceration trends that we're giving you a snapshot of do continue or persist, then this is what is likely to-- to happen. However, you know, if the racial impact statement is taken into consideration and maybe a proposed change is implemented, then with the best available information we have at this time, it's highly reasonable to assume that there would likely be. You know, we can't

say statistically likelihood-- you know, a statistical likelihood, but that it's very reasonable to assume that a reduction would occur in that disparity based on prior research, you know, very well done research with a large-- a large population or a large sample followed over a period of time. And we have several of those types of studies in different-- you know, different locales. And so it's very reasonable to assume that those same-- that same reduction in disparity could-- could and would occur here. But as a good researcher would do, Dr. Greenberg and all of us that worked on this wanted to emphasize this isn't a guarantee that it will reduce the disparity because, you know, as others have noted, it's incredibly complex and-- and there are so many discretionary decision points earlier in the-- in the system for, you know, decision makers that are-- that are criminal justice actors, that sometimes, you know, you-- you make a change and there's an unintended consequence, but--

CRAWFORD: So maybe I'll ask if I'm understanding correctly and you can confirm this. So the racial data we have in Nebraska is a snapshot, that is, a photograph of the racial patterns that exist now. But you are reading the bill and using research on what's happened in other states to predict what you expect to happen in Nebraska. So the-- the graphs are a snapshot, but the analysis is a projection of the impact that you do expect the bill to have. Is that correct?

DAWN IRLBECK: Yes.

CRAWFORD: OK, thank you. Senator Hansen, I see you have your hand up again.

SCHEER: Yeah, I-- can I just have a follow-up?

CRAWFORD: Oh. Oh, sure, you may. Yes, sure, Senator Scheer, please do.

SCHEER: Thank you. Then if they have looked at other states that have provided this as part of their bill documentation, are there states or is this a-- a item that would be designed to cause the legislation to have perhaps special exemptions, perhaps to soften the load or soften the law a little bit for those that have maybe a propensity to commit those crimes, or does that have any effect on-- on this at all?

DAWN IRLBECK: I was referring--

CRAWFORD: Senator--

DAWN IRLBECK: Pardon me.

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CRAWFORD: I'm sorry. Dr. Irlbeck, go ahead.

DAWN IRLBECK: Thank you. What I was referring to is-- is research more generally, not-- not specifically looking at other states and their racial impact statements or anything legislatively per-- in particular, but research that-- that has been done--

SCHEER: Well, I-- I understand that you're--

DAWN IRLBECK: Yeah.

SCHEER: --you are looking at other research, but I think Dr. Greenberg initially said that there were seven or eight other states, Iowa being one, having looked into that and talked to those in Florida or others that are trying to implement that. Is that one of the purposes, to have the disparity, the racial impact study, part of the bill introduction?

DAWN IRLBECK: Can I-- I would like to clarify what you're asking. Are you-- I believe what I heard you say is so that there is a different level of accountability--

SCHEER: It would be-- well, what-- is it there to make available then, perhaps in a more obvious way to legislators, that would provide perhaps exemptions or changes that would minimize that impact or not?

CRAWFORD: All right. Dr. Greenberg, I-- I-- I think we've talked about like how it would work in the process, but you go ahead and answer what you're thinking this looks like.

SCHEER: And I'll-- I'll be-- I'll be quiet now, so I [INAUDIBLE]

CRAWFORD: No, that's all right. No, we want to have questions. Yeah, yeah.

PIERCE GREENBERG: Yeah. I don't know. I mean, I think-- I think I understand what you're asking. I think it's an interesting idea in terms of like, well, what do you kind of do with the information, right, once you have it? But I wasn't thinking about that being as part of our purview. But your question about what's going on in other states is interesting, too. Right? Like this would be helpful if other states that had this practice actually-- you know, there was more sharing, right, like across states to show like, hey, before this state does that, here's what we did. To my knowledge, it's-- the information is harder to come by than that. And so, yeah, I think-- I

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think those two things are interesting possibilities but not something we had really discussed, yeah.

CRAWFORD: So I think-- for the record, I believe, Senator Vargas mentioned in his opening, in terms of process, this would operate just like a fiscal impact statement, but only for a subset of bills, in that the committee members would see it before the hearing, so they'd have that information as they're discussing it, and no doubt, like a fiscal impact statement, it would be, you know, on the record with the bill so that if it came out of committee, other members, other senators would be able to read it, just like other senators now can read a fiscal statement. So it-- it-- it's designed to be modeled and use-- be used in the same manner that a fiscal note is used in that way in its-- in terms of information way. Senator Hansen, did you have another question?

M. HANSEN: I did, but it's for Senator Vargas, so is-- would that be appropriate to ask now or is he going to get to close?

CRAWFORD: I think after we close, we'll go ahead, and hopefully Senator Vargas will stay around for that question. Great. Any other questions? All right, then, again, I thank everyone for being here and for being a part of this briefing. I'm going to adjourn the formal briefing and turn off the recording, but anyone-- and then I will open the Q&A. So if there are questions from people who are-- who are observing, we'll be able to see those questions, and also those who are panelists will be able to speak informally to one another. So with that, I'll adjourn this briefing.