

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board March 1, 2021

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HUGHES: OK, it's 12:00, according to my telephone, so welcome to the Executive Board Committee. I'm Senator Dan Hughes. I am from Venango, Nebraska, and I represent the 44th Legislative District. I serve as Chair of this committee. The committee will take up the bills in the order posted. Our hearing today is your public part of the legislative process. That is your opportunity to express your position on the proposed legislation before us today. Due to social distancing requirements, seating in the hearing room is limited. Doesn't look like that's going to be a problem. We have entrance and exit doors identified. We request that you wear a face covering while in the hearing room. Testifiers may remove their face covering during testimony to assist committee members and transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and chair between testifiers. Public hearings for which attendance reach a seating capacity-- we're not going to go there. I ask that you abide by the following procedures to better facilitate today's proceedings. Please silence or turn off your cell phones. Move to the front row when you are ready to testify. The order of testimony is introducer, followed by proponents, opponents, neutral, then closing by the introducing senator. If you are testifying, please fill out a green form found in the back of the room. Hand in your green sign-in sheet to the-- to a page or the committee clerk. When you come up to testify, speak your first-- spell your first and last name for the record as you begin testifying. Speak clearly into the microphone and be concise. We ask that you please keep your testimony to five minutes, five minutes today. We don't look like we have a big crowd. When you see the yellow come-- light come on, that means you have one minute remaining, and the red light indicates your time has ended. Questions by-- from the committee may follow. We ask that you please limit your-- limit or eliminate your handouts. If you have handouts, the material may be distributed to committee members as exhibits while the testimony is being offered. Please make sure you have 13 copies and give them to the page and they will come up and te-- when you come up to testify and they will distribute them to the committee staff. The committee members with us today will introduce themselves, starting on my left.

LATHROP: Steve Lathrop, Legislative District 12.

LOWE: John Lowe, District 37.

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HUGHES: And on my right?

VARGAS: Tony Vargas, District 7, downtown and south Omaha, and I serve
as Vice Chair.

SLAMA: Julie Slama, District 1.

McCOLLISTER: John McCollister, District 20.

HILGERS: Mike Hilgers, District 21, northwest Lincoln, Lancaster
County.

HUGHES: Very good. Normally to my left is committee counsel Janice
Satra, but she is in Florida tending her new grandchild, so we're
anxious--

McCOLLISTER: Not [INAUDIBLE]

HUGHES: --anxious for her.

McCOLLISTER: Oh.

_____ : Her grandchild's [INAUDIBLE]

McCOLLISTER: Oh.

HUGHES: And to my far right is our committee clerk, Mandy Mizerski.
Our pages today are Jenna and Chuck. So with that, I will turn the
hearing over to Vice Chairman Vargas for our first bill.

VARGAS: Welcome, Chairman Hughes.

HUGHES: Good afternoon, Vice Chairman Vargas, members of the Executive
Board. My name is Dan Hughes, D-a-n H-u-g-h-e-s. I represent the 44th
Legislative District. I'm here today to introduce LB393. This bill is
a shell bill. It's very simple. It does nothing substantive and it
means-- it is meant to be a placeholder in case an issue comes up
before-- up-- comes up later in the session for which we need a
vehicle to address something under the Exec Board's jurisdiction. With
that, I'd be happy to answer any questions.

VARGAS: Thank you very much. Any questions for Chairman Hughes? Seeing
none, will you stay for closing?

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HUGHES: Yes, sir.

VARGAS: OK. Thank you. Proponents for LB393? Seeing none, moving on to opponents, any opponents for LB393? Seeing none, anybody in the neutral testimony for LB393? Seeing none, Chairman Hughes waives closing. That closes the hearing for LB393, moving on to LB657, and there were no letters in the testimony, so.

HUGHES: Thank you, Vice Chairman Vargas. Did anybody time that? That's got to be a pretty good record for bill introduction.

VARGAS: If only they were all so-- that easy. OK.

HUGHES: Welcome, Senator Vargas--

VARGAS: Thank you very much, Chairman Hughes.

HUGHES: --to your Executive Board Committee.

VARGAS: Thank you, Chairman Hughes and members of the Executive Board. Two handouts, one you'll be getting as a one pager on this bill and the other is an interim study report. Thank you very much. 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 here in the Nebraska Legislature. I'm here today to introduce LB657. LB657 should seem familiar to some of you. We've had this conversation in the past. It would require the Office of Legislative Research to create a racial impact statement for each bill or resolution introduced in the Nebraska Legislature, as directed by this Executive Board. Now LB657 should be familiar subject to you. We've had a few hearings and discussions with the Rules Committee over the past few years about racial impact statements. Over the interim, I worked with Chairwoman Crawford, Chair of the Rules Committee, and Creighton University Social Science Data Lab to come up with a method for putting these together. That LR that you have in front of you is a compilation of that work. They presented information to the previous Rules Committee at the briefing in December, which included actual racial impact statements for three bills that were introduced last year as examples of what these could look like and then worked with Senator Crawford to publish a report on the feasibility of instituting this practice in the future. And then again, this January, the Rules Committee, under new leadership, heard my proposal. Now the proposal did not have the

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unanimous support required to make it out of committee this year, and that is why I decided to bring this as a bill. Simply put, racial impact statements are a tool that will give us 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 called a minority impact statement as part of the fiscal notes for certain legislative bills. Now their law was passed as a response to the growing concern that their corrections and prison population was disproportionately full of African Americans and Latinos. Nebraska, unfortunately, has this problem as well, though one way we can work on addressing it is by having nonpolitical information and data about how policies would or wouldn't affect minority or underrepresented populations. Since Iowa pioneered this concept, a handful of other states have also passed similar bills. Connecticut, Oregon, New Jersey have racial impact statements now, and bills have been introduced in Arkansas, Florida, Mississippi, Wisconsin and Maryland, as well as numerous municipalities across the country. Now if this bill were to pass, the racial impact statements included with designated bills would include, among other material and factual information, the estimated impact the bill would have on racial impacts and racial disparities in the state, a summary of any relevant research on the historical racial impact of bills similar to the one proposed, and information about the data and methods used to measure such racial impact statements. It's incredibly important that the information contained in these racial impact statements is not seen as political or partisan or a policy solution, much like we view all our fiscal notes for all of our bills as the Legislative Fiscal Office best estimate of the cost to our state's General and cash funds, and not as a commentary on the quality or idea of the legislation. That's the same thing that we need for racial impact statements. My office has had conversations with Legislative Research over the past several years about how this goal might be accomplished, and I understand that it would be a new set of responsibilities for LRO. But after working with Creighton and Senator Crawford over the interim and the Rules Committee, I think-- and the previous Rules Committee, I think that the previous Rules Committee saw that these statements could be compiled relatively quickly and easily using publicly available data. The last thing I'll mention before I open it up for questions and other testifiers is about what a racial impact statement might look like in actuality on a piece of paper in front of us. That was the biggest unanswered question coming out of the Rules Committee hearing

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on these proposed rules changes last session, for some of you that have been on that committee. So I just want to spend a little time making sure you all have some idea of what this could actually look like. The interim study you have in front of you includes sample racial impact statements created for bills that we heard this last year. They are succinct. They are-- it's not prescriptive. It is a sample of what it could look like, and they were done in pretty short order as examples. So what I want to sort of communicate is these are possible. They are easy-- not easy to produce, but they can be produced within a general time frame and what we need. They can be done in a nonbiased way and just data-driven way. And it's meant to be informative, not directive in any way, shape, or form. So what you have in front of you is the compilation of that work. This should give you an idea of what it could look like and helpful for as we consider and debate public policy. You know, we often have discussions here about policies that we support or don't support. I've actually had really great conversations with Senator Erdman on this in public record. And, you know, he-- he often tells me-- he's asked questions about, you know, what are the real underlying reasons we have these disproportionate impacts of African Americans. Why are more African Americans or Latinos in our prison system? You know, what is this really about? And my answer to him is, that's the kind of conversations we should be having. These reports will not tell us what the answer is to that question but would provide us with data to inform us on when other states have introduced similar legislation or what research shows are underrepresented groups and people of color disproportionately impacted in any way, shape, or form, or not at all. And that information is really helpful as we make public policy decisions. Rather than sort of answering the question as a yes or no, I told him, this is going to be a tool and, Senator Erdman, you will have the ability to make decisions with this tool to help inform you, it's not going to tell you what to do or how to do it. So I think this is a toolbox-- this is a tool in our toolbox that hopefully we can consider to help us with public policy. And with that, I'll have-- answer any questions any has.

HUGHES: Thank you, Senator Vargas. Are there questions from the committee? Senator Lowe.

LOWE: Thank you, Chairman. And thank you, Senator Vargas. You may have created the perfect bill. There is no fiscal note. Do you-- how did

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you do that and-- so we can do it on the rest of ours. But do you have
any idea what this-- this would cost, an estimate?

VARGAS: For-- for those that are listening, there's no such thing as
the perfect fiscal note. But-- but I-- I will say this. The cost
that-- I think it's going to vary. It's going to really depend on the
load. So one of the-- one of the stipulations we put in this is that,
you know, this would be for bills that have sort of substantive
changes in-- in-- in law that have to do with juvenile justice or
corrections or have our-- basically changing like a charge in statute.
And then the other part of it is at the discretion of a Chairperson or
at the request of a senator, you know, coming to the Executive Board.
So we imagine this would be a decent number of bills, but obviously
not all bills. It's not all 600-plus bills that we would do, but we
know how many bills usually come through Judiciary. And so it's a
little hard to-- to envision how-- how much it would cost. But LRO, I
have a lot of trust in LRO that they would be able to assess their
capacity. If we would need to hire an additional FTE to then provide
the resources to then enact this, they would tell us; or if they would
have to potentially contract out services for expertise on this,
that's sort of written in here. LRO would do this and-- and find the
resources they need. So there-- I anticipate there's going to be a
cost, I-- I do, unless LRO tells me that they can do this in-house,
which is possible as well, but--

LOWE: Would-- would you have any idea how much time it would take per
bill?

VARGAS: So in the report, it details out a little bit more on the
process but at really high level. I mean, the Creighton Data Center,
you know, they were taking hours on these. It wasn't like days on end.
So they really tried to say, with the limited time that we have, you
know, five-- basically like a four to six hours, can we put together a
two-page report? And that's what they were able to put together.

LOWE: OK. Thank you.

HUGHES: Additional questions? Senator McCollister.

McCOLLISTER: Yeah, thank you, Chairman Hughes. Would you presume that
when it came time to pass the budget, it would come with a-- a impact
statement?

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VARGAS: Presume? No. But our budget is a moral document and-- and there's a lot in there. There's also a lot in there that really doesn't touch upon, I think, directly some of these, you know, inequities we may-- we're talking about. So really trying to confine it to subject matter where we're seeing the data that there's an overrepresentation of people of color in these different systems, it's worthwhile for us to sort of target it. But it's a good question.

McCOLLISTER: Thank you.

HUGHES: Additional questions? Senator Lathrop.

LATHROP: I do have a question. And I apologize that when this was in the Rules Committee, I didn't make the hearing. So I do want to-- a lot of these, I would expect, would be, for example, on a bill enhancing a criminal penalty, right?

VARGAS: Um-hum, yeah, exactly.

LATHROP: And as you noted, there's a-- there's a disproportionate number of brown and black people caught up in the criminal justice system. So if we were to, for example, raise the penalty for-- or have a bill to raise the penalty for armed robbery, the racial impact statement wouldn't necessarily reflect what's already the case, right? In other words, this is going to disproportionately affect because brown and black people are arrested more often and prosecuted more often for that. I'm wondering what we're trying to get out of it, because in contrast to changing an existing penalty which is being disproportionately enforced or brown or black people are being disproportionately represented among those arrested and prosecuted, then you have this situation where Congress had a difference between the penalty for cocaine versus whatever the other drug was that was more commonly used by minority communities. Are we looking-- what are we looking for, those cases where we're doing something that makes it worse for brown and black communities than it makes for whites or just illustrates that they are disproportionately affected every time we make a penalty worse? Does that make sense?

VARGAS: It does. And my answer is-- I'm not going to be as clear as I-- I think you're looking for. Sometimes even what you just said, that there is disproportionate-- let's say if we change some-- some charge to make it harsher, let's say for robbery. Not everybody, I

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don't think, in our body would say that this is going to disproportionately impact people of color. I think data might suggest that, but I-- I think that might be sort of up to debate. I think when we have tools that very clearly tell us what data has shown us, it now leads us to focus more on the solution. So in that instance, it might just tell us what we already assume, what you're assuming and what I'm assuming, which is it's going to have a disproportionate impact on black and brown communities. But instead of debating whether or not that's true, we can just move forward and figure out what the policy solution is. And some of these other nuanced, you know, places, like you mentioned, you know, drugs, right, and-- and some have a more harmful-- I think it's going to be even more helpful to dig into the data there, because we're going to see that there are inequities that exist by the certain drugs that we have-- that are being utilized by different communities, and it'll make us make different decisions. That's going to be even more helpful, I would say. Really want to get past-- past the standard where we're, we're still debating the data and, instead, utilize the data for what it is and move forward on the policy. So that's-- that's really the hope. It-- it-- it's more seen as a tool and less as left up to question on whether or not it's real.

LATHROP: OK, thank you.

HUGHES: Any other questions? I guess I've got a couple. So you envision this racial impact statement mostly geared toward the criminal justice system? And would it be also any other area that the Legislature works out, or are you primarily focused there first?

VARGAS: Primarily focused there, because that's what we've seen in other states that's worked. It also lends itself to the most publicly available data. I mean, there was always a conversation in other states and municipalities on, well, does-- does in a-- a racial impact effected in education. And I think you could make the case, yes. But for the purposes of where we're seeing the most discrepancies, the justice system or corrections system seemed to be the most appropriate place to really focus their efforts on.

HUGHES: OK, so in-- in your-- the opening or something, I saw where you had referenced where there's a disproportionate amount of-- of-- of people of color in our prison system versus the percentage of the population. It struck me, and I-- I think it was Senator Lathrop said the other day, but I'm-- I don't remember who for sure, that 70 to 80

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our COVID-19 response protocol

percent of our prison population had a parent that has been in prison? I don't-- did anybody else hear that or remember who said that? Anyway, it really struck me that a very high percentage of the population, that is their culture, that's what they learned, that's what they saw their parents do, and-- and, you know, we generally try to emulate their-- our parents because they are our role models, good or bad. So I guess my question to you is, does that-- do you just use strictly population numbers or do you take into-- to account any type of that culture where you have multiple generations of individuals doing the same way? And this-- and this cuts across ethnic boundaries. It's not a-- it's not a black or white or brown issue. I would assume you would find the same possibility of prisoners who have a parent or parents or even aunts or uncles who were in the-- in the prison system. I-- have you ever thought about that as being a-- a factor in trying to determine, you know, what the-- you know, what the racial impact would be of any specific legislation?

VARGAS: So I'll try to react to a couple of questions. So-- so first, I think words really matter here, and I-- I know what the question you're asking is, so I just want to try to address one thing. Data is really helpful, and you're bringing up at least data points that you might have heard from Senator Lathrop, which I think is important, which is the percent of individuals in our corrections system that have had a individual-- a parent that has been in the correction system. That's helpful. In these racial impact statements, you would never see a reference to culture because that's a very broad term, and also what's most important is where are we seeing the disparity. So you'll probably see ethnicity and race or socioeconomic status, but ethnicity and race for the purpose of this, because I also don't want anybody to think that we're talking about culture in a broad sense, the-- but the question you're asking is an important question. I introduced a bill last year that was a caregiver diversion bill. Senator Lathrop remembers this. It's creating caregiver diversion program. Basically, we would create a diversion program at a local level or provide the opportunity to do this where if there was a individual that was the sole head of the household and is there a way that we could provide some sort of diversion instead of putting them in the system, because if there's one parent, only one parent or a main parent that's in the system, it's going to have a negative effect on the family. In a racial impact statement for that bill, I imagine we're going to maybe see that data point you just brought up, which is

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our COVID-19 response protocol

the percent of individuals that have family members, parents in the system. The question you're asking is the exact question we would-- we would be-- we would be posed with if we had a racial impact statement. It-- but when we don't have it, we kind of live in this conversation, so the racial impact statement would diagnose, give us data on racial disparities we might see with-- with parents in the system broken down by race and ethnicity. It might tell us if there was a similar bill to the one I just shared in another state that was passed and analyze any data we have on the impact of that bill. It will do the best that we can to get to the-- sort of the answer, to answer your question, but it won't tell you whether or not the bill is the thing that you should do or shouldn't do. So you're posing the right question. It-- it's a policy question, but--

HUGHES: So if-- if I could follow up, so the intent of this racial impact statement would be to-- would be another minority protection? I mean, is that a pretty broad sweep or that's not--

VARGAS: I would say that's a broad sweep, but not a minority protection, an analysis of the impact a legislative proposal would or wouldn't have on a racial or ethnic subgroup. And that information is important for us to take into account when we're making public policy decisions; actually, it's critical. May not change what we do, but I think it actually will change in the end how informed we are in the decisions we make. So that's what it would be, not a protection, because we still get to do, as individual policymakers, whatever we may get to do. It's like a fiscal note. We get a fiscal note. We still utilize that as a piece of information, doesn't stop us or impede us from what we do from there on in. It's a point of information that we take to help us make public policy decisions.

HUGHES: So I guess your-- your point is not to point out a-- a minority impact to create more of a sympathy vote or more of a leaning toward the issue; or the flip side of that, of course, is if it-- it benefits a majority to try and sway the other way, that we shouldn't enact that legislation because it does create a-- a positive impact on a majority of the state population. Is-- is that kind of where you're going or--

VARGAS: No.

HUGHES: OK, OK.

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our COVID-19 response protocol

VARGAS: This is not the intent to then provide a sympathy vote. My hope is we don't do that. We make informed public policy decisions; when we have the best available data possible, we make better decisions. And so this would be the best public available data on how a change-- legislative proposal would or would not impact subgroups that are traditionally overrepresented in certain systems. It also helps to avoid biases in some way, shape, or form. So that's why the data is really, really important--

HUGHES: OK.

VARGAS: --and individuals can make whatever decisions they want after that.

HUGHES: OK, very good. Any additional questions? Seeing none, you'll stay for closing?

VARGAS: Yeah.

HUGHES: Very good. We will open up LB657 to proponents. Welcome.

CRAIG BECK: Good afternoon, Chairman Hughes and members of the Executive Board Committee. My name is Craig Beck; that's C-r-a-i-g B-e-c-k. And I'm the fiscal analyst at OpenSky Policy Institute, here to testify in support of LB657 because we believe it is important to consider the racial impact of proposed legislation. The manner in which state and local governments raise and spend revenue has major implications for racial and ethnic equity, and fiscal policy has too often increased racial disparities in power and wealth. Working to ensure fiscal polities-- fiscal policies provide equal opportunity for all people helps to promote prosperity. Fiscal policies do not need to be explicitly race based to worsen or perpetuate inequities. Some legislation, such as large tax cuts for the wealthy, exacerbates disparities without acknowledging their impact on certain groups. Tax cuts in North Carolina in 2013, for example, resort-- resulted in white North Carolinians receiving 81 percent of the benefits, despite being only two-thirds of the state's population. Similarly, according to an October 2018 report by the Institute on Taxation and Economic Policy, the Tax Cuts and Jobs Act, passed by Congress in 2017, overwhelmingly benefited wealthy Americans. Because white Americans are three times more likely to be among the nation's wealthy, the TCJA resulted in households of color being largely excluded from accessing

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

its benefits. Considering these examples, we believe it is vital to thoroughly examine the racial impact of proposed-- proposed legislation to ensure that no negative effects are imposed upon communities of color. We have identified several policy areas where the introduction of racial impact statements for proposed legislation could be especially insightful. Changes in the tax code, particularly those which disproportionately impact one end of the socioeconomic spectrum, often serve to increase or temper racial disparities. The state inheritance tax and Earned Income Tax Credit program are two examples of policies that, when changed, have outside-- have an outsized effect on particular racial or ethnic groups. It is also important to examine how changes in certain budget areas would exacerbate racial inequities within the state. Health, education, and transportation funding is particular-- in particular, is vital for shared prosperity. Other states have found that communities of color are more likely to be uninsured, live in counties with less access to high-quality clinical care, attend school in aging school buildings, and are less likely to own a car. State funding is vital in seeking to mitigate these disparities, which begins with understanding the potential racial impact of proposed legislation. There are several resources that examine racial disparities which we believe could aid in the development of racial impact statements for proposed legislation. The U.S. Census Bureau's American Community Survey tracks SNAP and school enrollment by racial and ethnic groups, as well as income and poverty status of families. The Kids Count Data Center disaggregates children at Title I schools by race and ethnicity at the state level with statistics on graduation, proficiency, suspension, and expulsion metrics. There's a growing trend of incorporating racial disparities in data collection, and rendering a thorough analysis of the racial impact of proposed legislation is increasingly feasible. OpenSky is currently working to incorporate this racial equity framework and updates of our past publications as well as future analyzes. We strongly believe in doing everything possible to evaluate the racial impact of proposed legislation and urge the committee to advance LB657. And with that, I'm happy to answer any questions. Thank you.

HUGHES: Thank you, Mr. Beck. Are there are questions from the committee? Seeing none, thank you for your testimony today. Welcome.

KAREN BELL-DANCY: Thank you. Good afternoon. I am Karen Bell-Dancy, K-a-r-e-n B-e-l-l, hyphen, D-a-n-c-y, and I am the executive director

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our COVID-19 response protocol

of the YWCA of Lincoln. First, I would like to thank Senator Vargas and cosponsors for introducing LB657. LB657 requires that racial impact statements be created for every bill introduced in the Unicameral. At the YWCA, we are committed to the work of racial justice until institutions are transformed, until the world sees women, girls, and people of color the way we do: equal, powerful, and unstoppable. Too often, racial justice is forgotten when drafting laws and public policy, as reflected in the frequent racial profiling incidents and increased policing of people of color, which has led to the overcriminalization and even death of people of color. LB657 represents a critical first step in recognizing systemic racism. While this legislation by itself won't dismantle systemic racism. It will require that legislators be more intentional about the legislation they vote for before moving forward and ensure that our state resources are used effectively to help all Nebraskans. With LB657, the legislative body cannot ignore the racial disparities that accompany a bill. Too many times, people of color have to bring forth evidence of racial disparities for senators to actively engage or understand the impact of their legislation and what it has on our community, something that should always be considered when introducing legislation. Nebraska would not be alone in passing this legislation. As The Sentencing Project reports, there are currently seven states that already have adopted racial impact statements, and an additional ten states have bills currently pending in their legislatures, all seeking to achieve a more comprehensive approach to legislation that contributes to healthy, diverse, strong, and safe communities. We hope that with this legislation, legislators specifically examine racial disparities to advance racial justice solutions, but also work toward impacting communities and incorporate and include us to achieve racial equity. And for those reasons, I urge you to advance LB657 to General File. Thank you. And if you have any questions, I will attempt to respond.

HUGHES: Thank you, Ms. Bell-Dancy.

KAREN BELL-DANCY: You're welcome.

HUGHES: Are there any questions from the committee? Seeing none, thank you for coming in today.

KAREN BELL-DANCY: Thank you.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

HUGHES: Welcome.

SPIKE EICKHOLT: Thank you. Good afternoon, members of the Executive Board. My name Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t, appearing on behalf of the ACLU of Nebraska in support of LB657. We want to thank Senator Vargas for introducing this bill. The bill, as proposed, would direct the Executive Board to have the Legislative Research Office create racial impact statements for designated legislation. But I think, as Senator Vargas explained, I think the area of focus and what his rule change proposed earlier this year was to have racial impact statements for areas of law in which we already know we have a disproportionate racial impact, and that's primarily criminal justice and juvenile justice. Those are on the Exec-- those are on the Judiciary Committee, know because I've made this point before. We can measure and we can look at the people who are impacted by the criminal justice system and see a clear trend, a disproportionate racial impact. We see it every year, and I think in March or April, the Crime Commission is going to have their racial profiling data they compile annually. We can show that there is a disproportionate number of people who are stopped in traffic stops, who are cited, and who are arrested. You can look at the jail populations any day of the year, any-- and the prison populations, as well, and you can see that the people who end up in jail and prison are disproportionately people of color; people of color are overrepresented. There is something with our criminal code or something with the way that we enforce that that causes that. It may not be explicit, may not be deliberate, but it's systematic; if you do nothing, it's going to continue. What this would provide for would be a way for the Legislature to at least anticipate what a bill or a proposal would do. Is it going to exacerbate that system that we have now or is it going to mitigate it? In response to what Senator Lathrop asked earlier, are there some instances that-- a bill that might just increase a penalty? And you can look at the number of people are in prison serving a sentence for that penalty and that's easy to measure, it's easy to anticipate. There are other things, though, that are a little more subtle with how we define crimes, the sanction that we have for existing crimes, what crimes we don't penalize that much and what ones we do. And I can think of an example, if someone wants to ask me, of one where I think, if we had a racial impact statement, we could measure a mitigation effect on people of color. This is a good bill. It was a proposed rule change earlier this year. And I think in response to what Speaker Hilgers

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

asked about at that time, and I was listening, that what this bill would actually do and the reason why I think a bill would be necessary is that the bill, on pages 3, lines 11 through 15, would direct that other state agencies or other departments would cooperate with the Legislature. And I think that was passed into law that it would at least be clear legislative authority, directive, or at least reflective of legislative intent that those other agencies cooperate and work with the Legislature. That's maybe more substantive than just a rule change. So even if you were to pass this bill, the bill envisions that the Executive Board would still have to take it the further step, either on a bill-by-bill basis or at the request of the introducer of a bill or the request of the chair or however the Executive Board and the Rules Committee wants to craft that proposal. But I think doing this is an important step to address the disparity that we have in our criminal justice system, and this is particularly important if we're going to look at systemic reform of our criminal justice system in the coming years. So I don't have anything else to add, or maybe since-- since I have-- I'm not used to having five minutes; I'm used to having three. No offense. [LAUGHTER]

LATHROP: None taken.

SPIKE EICKHOLT: Last year--

LATHROP: That's hardly offensive to me.

SPIKE EICKHOLT: This-- when you look at the racial profiling data, a common crime that people are stopped with are driving under suspension. That's not court ordered not to drive. It's your license is suspended because you got behind on child support or you've not paid a traffic fine and court costs and your license is suspended until you fix that suspension. That's a fairly significant crime. It's a jailable offense and it's an arrestable offense. Senator Matt Hansen passed a bill through Judiciary that went into effect last July that would lengthen the amount of time that the court-- if you don't pay a traffic fine on time or you don't go to court for that, the court would contact the DMV and your license is suspended until you resolve that. Senator Matt Hansen passed a bill, LB259, that increased the amount of time from 20 days to 30 days where the court would notify the DMV and give a person an opportunity to go back to court to kind of halt that process, to either ask for more time to pay the fine or do community service or something in the alternative. It was a good

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bill. This Legislature adopted that. That was a good pro-- that was a good reform. It would have been nice to see how that would work and that would mitigate racial impact. I-- I suspect it would be to-- that it would do that and it's going to have an impact. But I don't know and we don't know. It's just speculation, it's just anecdote, it's an argument. And if you can imagine passing legislation without fiscal notes and you're trying to somehow argue what this is going to cost, and I think it's going to cost less and I think it's going to cost more, that's not very informed. This would provide to have that in the racial impact statement setting.

HUGHES: Thank you, Mr. Eickholt. Are there questions from the committee? Seeing none, thank you for your testimony. Any additional proponents to LB657?

***JULIE ERICKSON:** Thank you Chairperson Hughes and members of the Executive Board. My name is Julie Erickson and I am here today on behalf of Voices for Children in Nebraska in support of LB657. We find ourselves in the midst of an important reckoning in our country. The violent legacy of racial injustice has caught up to us, and a resistance movement, led in large part by young people demanding the dismantling of white supremacy in the United States, has emerged. Undoing centuries of institutionalized harm requires us to refocus the lens with which we view policy decisions and how they impact communities of color. Voices for Children in Nebraska supports LB657 as racial impact statements have emerged as a potential legislative tool for our collective reimagining of the policy process. Racial impact statements are meant to inform legislators of the effects of bills on communities of color and other marginalized communities so that they can take steps to avoid increasing disparities. To fully inform legislators and the electorate on the effect of legislation, it is imperative that racial impact statements are available to all stakeholders as early in the legislative process as possible. Our state systems should be structured to ensure that every child has an equal opportunity to grow up safe, healthy, and valued, and the state's response to a youth accused of a crime should not be dictated, explicitly or implicitly, by a child or family's race or ethnicity. However, both in Nebraska and nationally, the data suggest disparate treatment occurs throughout our juvenile justice system, with youth of color experiencing far different outcomes than their White peers for similar infractions. From the moment of arrest and the decision whether to divert, the disparities between Nebraska kids based on race

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and ethnicity grow larger the deeper we move deeper through the juvenile justice system. The data is clear that we haven't gotten it right yet, and that, in fact, reforms to improve our systems have tended to increase rather than decrease disparities in outcome for kids of color: the benefits of reforms have largely been felt by white, non-Hispanic youth. At Voices for Children, we are dedicated to transforming our country's treatment of young people who interact with the law and welcome LB657 as an opportunity to get serious about the racial inequities that lead to youth of color being disproportionately profiled, over policed, more harshly punished and left with a lasting legacy of racial trauma. Voices for Children supports LB657 as it pertains to juvenile justice, because it would provide an opportunity for the legislature to consider potential disparate impacts of proposed legislation on minority youth whenever a bill is brought to change or reform our juvenile justice system. Fully implemented as intended, racial impact statements can be a critical tool for addressing racial disparities in America's criminal and juvenile systems. The racial impact statement could be a launching pad for informed discussion around the disparate impacts of proposed legislation, and the potential effects - positive or negative - on communities that have historically experienced the worst of our systems. Voices for Children thanks Senator Vargas for his ongoing commitment to racial equity and the committee for having the leadership to consider this important legislation. I urge you to advance LB657. Thank you.

***KATIE PITTS:** Chairperson Hughes and committee members, Good morning, my name is Katie Pitts (K-A-T-I-E P-I-T-T-S) and I am the State Policy Director at Nebraska Appleseed. Nebraska Appleseed is a nonpartisan, nonprofit organization dedicated to justice and opportunity for all Nebraskans. In the Nebraska Legislature every bill has a fiscal note connected to it, in order to allow policymakers and community members to evaluate the fiscal impact of a proposal. This is viewed, rightly, as a crucial part of evaluating the merits, drawbacks or unintended consequences of a given proposal. In short, this type of fiscal analysis is viewed as responsible governance. With the systemic disparities that continue to permeate through society and our state, responsible governance also demands evaluating the impact and consequences of legislation on communities of color. That is what LB657 would aim to do. The bill would require an explanation of the expected impact of a legislative proposal on identifiable racial

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groups. This would assist the Legislature in understanding the real-world impact of legislation on Nebraska's communities of color, and in identifying unintended consequences, prior to the passage of legislation. If a significant racial disparity can be identified prior to a bill's passage there is an opportunity to consider alternative approaches that may not result in negative impacts. Although these racial impact statements will not address or fix the challenges with systemic racism in our state, they are a step in the right direction to better informed policymaking. We ask this committee to advance LB657 to ensure we can solve disparities in Nebraska's communities.

***MAGGIE BALLARD:** Dear Senator Hughes and members of the Executive Committee, I am writing on behalf of Heartland Family Service to ask you to support LB657. We extend our gratitude to Senator Vargas for the work he has done on this issue. As you know, requesting that racial impact statements be included on criminal justice and juvenile justice bills has previously been a proposed rule change. While Heartland Family Service supported it then, we are even more in favor of it being in statute, because it indicates that the Legislature wants to address disparities in our criminal justice system. When our Legislature has more information in front of them regarding how BIPOC will be impacted by certain proposals, it is not to say that such a bill should or should not be passed due to that disparity. After all, we do not throw out bills that would cost money just because of the fiscal note. Instead, it provides a more holistic picture by providing more information. Furthermore, racial impact statements are an important tool for our state to evaluate potential disparities of proposed legislation, prior to adoption and implementation. Similar to fiscal impact statements, they assist in detecting unforeseen policy ramifications so that we may be able to modify legislation that would worsen existing racial disparities. Practically speaking, it is important to address a policy's unwarranted effects before it is adopted. Please vote in favor of LB657 and feel free to contact me if you have any questions.

***SEAN KELLEY:** Chairman Hughes and members of the Executive Board, my name is Sean Kelley, S-E-A-N K-E-L-L-E-Y, appearing today in support of Legislative Bill LB657, require the office of Legislative Research to prepare racial impact statements for legislative bills, on behalf of the Douglas County Board of Commissioners. The Douglas County Board supports legislation requiring a racial impact statement for any legislative bill that significantly affects criminal or juvenile

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justice. Douglas County does not have a preference on how the racial impact statements are submitted or requested. The underlying support is for lawmakers to have the ability to obtain racial impact. Douglas County supports the premise of all public bodies reviewing impacts legislation and policy have on racial populations. We hope the Executive Board acts favorably on LB657.

***KATIE ZULKOSKI:** Chairperson Hughes and Members of the Executive Board: My name is Katie Zulkoski and I am testifying on behalf of the Nebraska County Attorneys Association in SUPPORT of LB657. LB657 contemplates and encourages a process of legislative examination of the potential for laws to have a disparate impact following enactment. This is an important step in reformation efforts in the juvenile and criminal justice systems. The NECAA is actively invested in the study of disparity issues. For example, Lancaster County has been a statewide leader for several years with the work of its RED(racial and ethnic disparities) Committee. This committee is made up of local community leaders who meet each month and review data from the juvenile justice system and its impact on racial and ethnic disparities. The University assists with data collection, analysis, and reporting. The results influence change and produce more equitable programmatic and systemic results. As it relates to criminal law, prosecutors have incorporated implicit bias training and invested in the study of racial and ethnic disparities in their criminal practices and procedures. County attorneys are developing RED data points to better understand increases in violent crime in some communities. Just as it is important for dedicated prosecutors to have experience and a firm understanding of the complexity of this issue, we believe LB657 is an important and fundamental systemic approach to policy development and change. Criminal justice system partners must all do their part. The attached "crime radial" is a visual representation of the many areas influenced by crime and is an important reminder that each part should be scrutinizing the impact of the decisions they make. Each decision ripples throughout the system. The NECAA would encourage the Executive Board to include "and ethnic" to the bill's language and support the advancement of LB657.

HUGHES: Anyone wishing to testify as an opponent to LB657? Anyone wishing to testify in the neutral capacity on LB657? Seeing none, Senator Vargas, you're welcome to close. We do have written testimony in lieu of personal-- written testimony in lieu of personal from a proponent, from Julie Erickson, Voices of Children; Katie Pitts,

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our COVID-19 response protocol

Nebraska Appleseed; Maggie Ballard for Heartland Family Services; Sean Kelley, Douglas County Commissioners; Katie Zulkoski, Nebraska County Attorneys Association. We also have position letters in support from Rick Vest, Lincoln County Board of Commissioners. Sheritta Strong for herself; Amy Wenzl, herself; Curtis Bryant, National Association of So-- Social Workers; Amy Behnke, Health Care [SIC] Association of Nebraska; and a letter, a position letter in opposition from Doug Kagan, Nebraska Taxpayers for Freedom. With that, Senator Vargas?

VARGAS: I-- I try my best to be as pragmatic as possible when we're talking about this bill. It is-- it is a tool. It is difficult to describe how it feels when-- being one of the few people of color in this body, seeing the disproportionate makeup of people of color in our justice system. I visited NSP, I visited Tecumseh. I visited-- and seeing that disproportionate level of overrepresentation of black and brown people is difficult for me to see. It's also difficult to see it in the justice system at-large, as well. We did a report. The Legislative Planning Committee did another-- did a report, and the report showed that we see the overrepresentation in our juvenile justice system and our justice system. I don't think that's left up for debate; however, as lawmakers, as policymakers, there's a benefit for us analyzing the impact that a legislation will have on a subgroup that is overrepresented in these systems. Similar to what Spike said, it's not the solution. Solution is what we're going to decide; whether or not we think that there needs to be reform at these levels, that is up to us. But the extent to which something is going to be harmful or helpful or do nothing at all to black and brown communities is the decision we make with every one of our bills, and specifically, I would say, in the bills and the subject matter of the justice system. Sometimes it is difficult talking about it because it's from a very unique perspective I bring this. And instead of focusing on my qualitative experience and all the instances of-- of racism I've felt in my own life, let's focus on what we-- data is really telling us about this overrepresentation. And maybe it will inform us enough to not wait till after we pass legislation and it's too late to change and reform the system. That's what this is about, and when you have it in front of you, you can choose to be more informed and educated about how this bill may impact black and brown communities or you can not. With all due respect, I don't think that this is about sympathy. It is about reality, and we should be as informed as possible about how

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our COVID-19 response protocol

communities of color are impacted by the laws we make here. So with
that, I'm happy to answer any additional questions.

HUGHES: Thank you, Senator Vargas. Are there any questions from the
committee? Seeing none, that will close our hearing on LB657, and we
do have a Reference report.