

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Executive Board of the Legislative Council  
February 08, 2007

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[LR1CA LR3CA LR7CA]

The Executive Board of the Legislative Council met at 12:00 p.m. on Thursday, February 8, 2007, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR1CA, LR3CA, and LR7CA. Senators present: L. Pat Engel, Chairperson; Don Preister, Vice Chairperson; Philip Erdman; Mike Flood; Ray Janssen; Gail Kopplin; Vickie McDonald; Arnie Stuthman; and Lavon Heidemann. Senators absent: Ernie Chambers. []

SENATOR ENGEL: So good afternoon, ladies and gentlemen, and welcome to the public hearing of the Executive Board of the Legislative Council. I'd like to, first of all, introduce you to the members of the board and the board staff and briefly explain the procedure we'll be following this afternoon. On my right is our legal counsel, Janice Satra. And on her far right, Senator Erdman, Chair of the Agriculture Committee. Senator Chambers will not be here, perhaps later. Senator Flood is busy on the floor. He might be here and Senator Heidemann might be here. But as of now, we have a quorum. On my left is Beth Otto, our administrative aide or legal...you have another position? []

BETH OTTO: Committee clerk maybe. []

SENATOR ENGEL: We've been together for a lot of years so she accepts whatever I say. And Senator Ray Janssen, he's the Chair of Revenue; Senator Vickie McDonald, Chair of General Affairs; Arnie Stuthman; and Gail Kopplin. Oh, I'm sorry, who normally sits on the right is the Vice Chair of the committee and who will be our testifier today, Senator...I always miss one. []

SENATOR PREISTER: Preister. []

SENATOR ENGEL: Preister. I know him very well. I've known him a lot of years but anyhow with that...now these proceedings are recorded and will be transcribed so I'd like to ask everyone to turn off their cell phones if they have them on. And first we'll hear testimony from the introducer of the bill, followed by those in favor of the bill being considered, then testimony in opposition and then neutral testimony. I'd like to limit the introducer to five minutes, if possible, and all the rest to three minutes. And we'll welcome anyone to testify if you have something to add, but would appreciate not repeating what we've already heard. And sign-in sheets are available in front so would you completely fill those out because it will help the transcribers have an accurate record. And when you testify, would you please state your name and spell it out also for the record. So if you plan to testify, come to the front row, which I think most of you probably are, and then there's another form for those of you who want to support or oppose the bill but do not want to testify and that is available for you also. If you have any printed materials, if you would please have those distributed to the board. A page

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will do that. And if you do not have enough copies, we need 15, they can also make those copies for you. So the first bill for today is LR1CA. And can we show the number of hands who are proponents to that particular bill. Okay. Of course the introducer and one other. Okay, that's fine. And how about those planning to testify against? I see none. Are there any testifying in the neutral position? I see none. So with that, Senator Preister, now that I remember who you are, proceed. []

SENATOR PREISTER: (Exhibits 1, 2) Thank you, Chairman Engel, members of the Executive Board. My name is Don Preister, P-r-e-i-s-t-e-r, and I'm here as the primary introducer of LR1CA, which would amend Article III, Section 7 of the constitution to increase legislative salary after January 7, 2009, to the amount of \$22,000 per year. Current legislative salary, as you know, is set at \$1,000 per month. The last time the Nebraska voters approved a legislative salary increase was in 1988 when the monthly salary was increased from \$400 to \$1,000. I have given you a couple of handouts: one that gives you the salary range across the United States in all of the various states so that you can see there's such a disparity of amount of times that they meet and what the responsibilities are, but at least it gives you a guideline. The other handout that I gave you is a history of our citizens vote on this issue. And as you can see from that, the legislative salary has only increased four times in the 70 years' history of the Unicameral. The first time in '52 went from \$600 to \$1,200 per year; in 1960 from \$100 to \$200 per month; in 1968, \$200 to \$400 per month; and 1988 from \$400 to \$1,000 a month. As you can see from those figures, each time it was about doubled. And it has been nearly 20 years now, would be over 20 years by the time this passed, were it to pass the voters' approval. And I would also note that you can see between the '68 and the '88 increase it had to appear on the ballot six times before it was approved. So although it was on the ballot just last year, I think it's important that the voters have an opportunity to vote on it again. And unlike in Washington in the Unicameral, our salary is locked into the state constitution and it does require a vote of the people. So the people have the say. I can propose it; the Legislature can approve it; but it has to be a vote of the people. And that's what I'm proposing. With that, Mr. Chairman, I will conclude my remarks. [LR1CA]

SENATOR ENGEL: Thank you. Are there any questions? Senator Erdman. [LR1CA]

SENATOR ERDMAN: Senator Preister, I think you have adequately analyzed the vote. And I think one of the flaws in the effort put forth by this Legislature was the CPI last year. The question I have in regards to drafting of your bill is why is this new language necessary when the existing language just states the salary? In other words, we add another three sentences into the statute, into the law, when before I think all we've done is struck the actual number of \$1,000 and replaced it with whatever number. And is there any insight you can give me on that or was that just how the bill drafters had recommended we proceed? [LR1CA]

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SENATOR PREISTER: Senator, thank you for the question. We had drafted it differently, and when it came back from Bill Drafters, they said technically this was the form that it needed to be in. And I didn't ask beyond that. I assumed that it was in this form because of some particular rationale that I guess I should have asked for but didn't. [LR1CA]

SENATOR ERDMAN: No, that's good enough for me. [LR1CA]

SENATOR PREISTER: But you also raised the other issue. I did a set dollar amount rather than an automatic increase because as I listened to the voters, I heard a lot of voters tell me they would have voted yes for the increase had it not had the COLA or the cost of living built into it. And with that vote, as I recall, approximately 125,000 people voted against it and just over 100,000 voted for it. This could make the difference in having it pass. So if \$22,000 isn't the right number, it could be \$24,000. I felt like this was in the range that from the polling data that was out there is acceptable to the voters. And it did it in a very clean way that would be easy to understand and acceptable. I'm certainly open to any other ways. [LR1CA]

SENATOR ENGEL: Thank you. Are there any other questions? Senator McDonald. [LR1CA]

SENATOR McDONALD: And I'm glad you said that. I think the issue probably is more, yes, that you need a raise, no, you don't need a raise. I think that \$2,000 figure from \$22,000 to \$24,000 probably is a little immaterial. I think it's yes or a no. Looking at your compensation, I see that you talk about per diem. What we don't know is if any benefits are provided by these states and in Nebraska we get no benefit. And, you know, sometimes their salary might be a little bit more, but they offer then a retirement package, they offer then health insurance, dental and all of those things. So it's not truly an accurate picture because ever state does spend different amounts on their senators. So with that, I appreciate... [LR1CA]

SENATOR PREISTER: You're absolutely right, Senator McDonald. And we got that information from NCSL and that was the format that they had it in. There are other benefits and other things besides just the compensation so I'm glad you pointed that out. Thank you. [LR1CA]

SENATOR ENGEL: Senator Erdman. [LR1CA]

SENATOR ERDMAN: Senator Preister, the last question I guess I would have is there's obviously two parts to any of these efforts to amend the constitution. One is, what is the language? And two is when you do it. Hindsight, I would probably say, and others may agree, that if we had known that there was going to be that great of an interest in the number of races statewide in the primary, which limited the ability for different groups to

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actually get the message to the voters that they intended to get, this may have even been successful. Do you feel it's of value that before we proceed and do you have an opinion I guess on which preference you would have if we would try to put this to the voters, should the Legislature adopt it, as a primary or a general election decision?  
[LR1CA]

SENATOR PREISTER: I thought about that. The thing that I like about the primary ballot is that generally the people that vote in the primary have taken the time to go out in advance. They're willing to look at all the candidates, not wait for somebody else to narrow the candidates down. They've taken the time to read issues and to pay attention. And so I tend to look at the primary as a time when more people put more effort into assessing things. Beyond that, I think it's up to the Exec Board to make the decision. But I would tend to lean a little bit toward a primary over a general election for that reason. [LR1CA]

SENATOR ERDMAN: Okay. And do we know...can we find out when these previous efforts were successful when they were placed on the ballot so that we can have....we can analyze if there was a difference there as well? [LR1CA]

SENATOR PREISTER: We're putting more information together so that if we have the discussion on the floor I hope to have that and any other questions answered that people may have. [LR1CA]

SENATOR ERDMAN: Okay, very well. [LR1CA]

SENATOR PREISTER: Thank you. [LR1CA]

SENATOR ENGEL: Are there any other questions? If not, thank you, Senator Preister. Next proponent. Would you please sign in and state your name and spell it for us. Thank you. [LR1CA]

JANICE ROGERS: I'm Dr. Janice M. Rogers, R-o-g-e-r-s, and I'm a member of the board of directors of Common Cause Nebraska. I'm testifying on behalf of Common Cause in favor of this resolution to increase salaries to \$22,000. Common Cause has been a proponent of increasing the salaries of state senators for many years. Even though some Nebraskans consider legislative work to be a part-time job limited to either the 60- or 90-day sessions, conversations with senators show that their jobs are some of the most demanding in the state. It is not unusual for a senator to receive a fax or a phone call in the middle of the night or receive an invitation for a meeting on a holiday during the off-season. It is amazing that we in Nebraska have attracted the high caliber candidates to the Legislature that we have with the demeaning \$1,000 a month plus expenses salary that we offer them. Even the modest increase proposed by this resolution is not commensurate with the work entailed, but it is a step in the right

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direction and we support this resolution. [LR1CA]

SENATOR ENGEL: Thank you very much, Doctor. Are there any questions of the doctor? Senator Stuthman. [LR1CA]

SENATOR STUTHMAN: Ma'am, what was your take on our last election? You know we went to the people for it. What did you hear from the people? Was it the dollar amount or was it the unspoken fact of the...it could raise up to that 4 percent, and that was the thing that they felt they didn't have control on? [LR1CA]

JANICE ROGERS: What I heard was it's just going to cost too much and that it is a part-time job. And that's what I heard so. [LR1CA]

SENATOR STUTHMAN: Do you think there will be any difference this next time if we put it out? [LR1CA]

JANICE ROGERS: If we can educate a little bit more about the job that you have I think so. [LR1CA]

SENATOR STUTHMAN: You know, and I truly think that's maybe part of our fault as legislators that we don't get out to the people enough and tell them, you know, what the job is about and how many days of work it is... [LR1CA]

JANICE ROGERS: Yes. [LR1CA]

SENATOR STUTHMAN: ...and the demands of it. And I think the majority of the people think it's truly 60 days or 90 days... [LR1CA]

JANICE ROGERS: Right. [LR1CA]

SENATOR STUTHMAN: ...and the money is under the table and we don't need to pay them any more. [LR1CA]

JANICE ROGERS: Yes, I agree. [LR1CA]

SENATOR STUTHMAN: Thank you. [LR1CA]

JANICE ROGERS: Thank you. [LR1CA]

SENATOR ENGEL: Are there any more proponents? Opponents? Testifiers in a neutral capacity? If not, Senator Preister, would you like to close? [LR1CA]

SENATOR PREISTER: (Exhibits 3, 4, 5) Senator, I would just, for the record, let the

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committee know that Van Argyrakis and Virgil Patlan, a constituent of mine, and Lynn Rex representing the League of Municipalities have all submitted letters in support and wanted that to be on the record. []

SENATOR ENGEL: (Exhibits 6, 7, 8, 9, 10) And I have to mention that there are two people in opposition to it and I do have those letters here so for your perusal if you want to see them. So with that, that closes the hearing on LR1CA and now we'll proceed to LR7CA. Senator Kruse. [LR1CA LR7CA]

SENATOR KRUSE: (Exhibits 11, 12) Thank you, Mr. Chairman and colleagues. My name is Lowen Kruse, L-o-w-e-n is the hard part of that and District 13 I believe it is. It's wonderful to be presenting a bill on which there's really very little controversy. I look around here and we all agreed to both Senator Preister's and my bill with one small difference and that really isn't difference in intent. First, I would say amen to all that's been said before us except for one small difference and I'll be pointing that out. I'll be looking at the green copy and would first ask you to make a correction that came down from Bill Drafters this way and we didn't catch it fast enough. On page 2, line 6, I think most convenient if you just take your pen and strike "an annual" and put it in "a monthly." Otherwise, there would be a serious error there. I would add my comment that I consider this a full-time job and I, the first few years I was down here, I kept a strict daily tab on how many hours I put in on the job and each year it was 2,000 or more. So I consider that full time. I was not trying to prove any point. I was trying to find out because I had heard all this stuff. The need for this has been documented and the history on it has been covered and I'm not going to do that and take your precious time with it. The difference here, and I'll just propose this for your discussion and reflection, and I hope we can give quite a bit of reflection to it, I would respectfully disagree with Senator Preister on the reason the last one failed. And I have talked to a lot of people and had people make it intentional to find out because I was a little stunned like many of you were what's going on here. The testimony I got was there was sticker shock in the booth. For those that had read about it ahead of time and knew what was going on, they understood COLA and so on. But for those that hadn't looked at it, I've had several people come to me say, you know, hey, Lowen, you're a great guy and you should have more salary but double it? I said, well, there's some things go into that. That's after 20 years. Oh, I didn't know that. They just saw the \$12,000 and the \$21,000 and they said, hello. Don't those guys have any more...guys is what they said, it's guys and gals, but don't those guys have any more sense than that? So I, oh, a couple of months ago I asked my staff to get to work on the wording that would not state the new salary. And the more I think about it, the more I like it, and I hope the same would happen to you. And again this intent is, you know, both Senator Preister and I will shout hallelujah if this passes the voter no matter how you do it. But what I like about it is that this focuses on what we want them to focus on is the cost of living. When you put out the \$21,000 or \$22,000, that looks like what we're really voting on. And, you know, that has been kind of what we're voting on. But what we really want in the last one, what we want them to

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think about was cost of living. We want to make that as an ongoing type of a thing. I talked with a variety of people who are very supportive of that and couldn't figure out why it went down. And everyone of those I said, did you read about this before you got to the booth? And they all said, yes. I said, do you have investments by which you consider compound interest? Yes. Do you think about those kind of? Yes. They all think about that and so doubling in 20 years, that's low, of course, in most of those person's minds. So they had no problem at all. Again, I think the sticker shock is the problem here. And the longer we wait, the greater the sticker shock. I think we should ask them to focus on this: the COLA, the cost of living index. Some have said...first response of my staff after we got it put together was, well, are people going to think we're trying to duck the amount? I said, no, I'm not. I will gladly provide the press exactly what this figure will be. It's \$22,100 according to our Fiscal Office for that first year. The press will cover it. It will be...there's no secrets, nothing being coy about this. You know, it comes from a thing of trying to be a little bit defensive. But then when I got to thinking about it, no, I want the public to think about cost of living and get rid of this business of coming back every few years and going through all the trudgery and the treadmill of that thing, Let's just vote it on cost of living and do that. Mr. Chairman, I have the cost of living from the Fiscal Office as a handout and the amendment in proper form. And I also have a letter from Lynn Rex for the League. [LR7CA]

SENATOR ENGEL: Are there any questions of Senator Kruse? Senator Stuthman. [LR7CA]

SENATOR STUTHMAN: Thank you, Senator Engel. Senator Kruse, do you really feel that it would be better to have this come out to the people saying that we're just asking for them to leave it at that \$1,000 where we're at but let's go back and get the cost of living from the last pay increase since 1998? In listening to that, I think the people are going to say, you know, that body is trying to slip something to us where they're not giving us that figure. And, you know, the figure is realistically \$22,000. Is it better to put out the \$22,000 or to put out something that, you know, the cost of living which people don't know? Is it two, three, four difference in years? And my interpretation would be I would feel as a voting member of the state that maybe the body is trying to slide something in and not give us the real figure. [LR7CA]

SENATOR KRUSE: Well, I feel quite strongly the other way, that it's misleading to come in with a figure like that, jumping it in that way, and also underlined. There needs to be full publicity from us and everybody else. I'd be ready to present to anybody that sheet that I just passed around. This is what the salary would be for this next year. The following year it would be more because that's what we're really voting on, not this first year salary. We're voting on the long term and we should be open about that. [LR7CA]

SENATOR ENGEL: Senator Stuthman, continue. [LR7CA]

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SENATOR STUTHMAN: But, Senator Kruse, aren't we really, if this is passed, the first time the increase would be, it would be \$22,000? [LR7CA]

SENATOR KRUSE: Yes. [LR7CA]

SENATOR STUTHMAN: I mean so that in my interpretation we should be telling the people it's going to be \$22,000. If you pass this, it's going to be \$22,000. [LR7CA]

SENATOR KRUSE: I would intend to tell them that. I was hoping that Bill Drafters could come up with another form and maybe not even give the \$12,000 originally. But they said it needed to be in there and that date needed to be in there in order to present it properly. I was looking far more carefully at the wording that was going to be in the booth because, again, a lot of people don't think about that until they get into the booth and that's what I'm looking at. [LR7CA]

SENATOR STUTHMAN: Okay, thank you. [LR7CA]

SENATOR ENGEL: Senator McDonald. [LR7CA]

SENATOR McDONALD: Looking at the writing on page 2 starting on line 5, "Beginning January 7, 2009, each member of the Legislature shall receive an annual salary during his or her term of office equal to one thousand dollars adjusted for inflation" and this is the problem I have, "as determined by the Legislature since the last salary increase for members of the Legislature." It looks like we're policing ourself. I would much rather see this determined by somebody else than the Legislature. [LR7CA]

SENATOR KRUSE: I would agree. I would agree. [LR7CA]

SENATOR McDONALD: I think to me that's kind of it's a smoke screen and they're going to look at that and say, okay, you're doing it to...you get to decide yourself. I'd rather have somebody else get to make that decision. [LR7CA]

SENATOR KRUSE: I certainly would agree. And, you know, I looked at that and then staff says, well, they're talking about our Fiscal Office. Well, that's not the Legislature. That is the Legislature and the thing I passed around is from Tom Bergquist down there. But at the same time, Tom Bergquist ought not to determine what the COLA is. So I would agree that it should...you know, some independent authority by a national, and you're talking about a national figure, not a state figure. [LR7CA]

SENATOR McDONALD: Right. [LR7CA]

SENATOR ENGEL: Well, I want to mention that Senator Heidemann Chair of the Appropriations Committee is here and also our Speaker, Senator Flood. And Senator



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Heidemann. [LR7CA]

SENATOR HEIDEMANN: The way you...you had talked about compound interest and the way you wrote this, and I'm going to continue on from where Vickie read, "last salary increase for members of the Legislature and every two years thereafter." I'm taking note of the two years, and the handout that you give, the way you have it wrote, you would not end up with a \$22,154 because it's not compounding as fast. [LR7CA]

SENATOR KRUSE: It's not compounded, but the...thank you. I was troubled with that too. But the pointing out you're best off by having the salary set for the session so it would be the same salary in our present term of '07 and '08. But that the COLA is an ongoing thing from '88. Now certainly we want to double-check and dot our i's on it, but I was a little startled by that too. But I would support that it ought to be one salary for the session and big deal, could be for each year. That might clean it up somewhat. But that's what Bill Drafters thought. [LR7CA]

SENATOR ENGEL: You know, from reading your handout here, it looks like Tom did use Consumer Price Index so he was not using his own figures. [LR7CA]

SENATOR KRUSE: No, he wasn't. But Senator McDonald is making a good point that the language is in there and it kind of would at fast reading, which again is what I'm working on. This person is in the booth and looking at it and says, oh, the Legislature is going to set it. We can't do that so. [LR7CA]

SENATOR ENGEL: Any other questions? Senator Preister. [LR7CA]

SENATOR PREISTER: Yes, Senator Kruse, I appreciate you trying to assess what might be more acceptable in the wording and the format to the voters. One of the things that you mentioned in your assessment was that the voters see it almost doubling and that's what it has traditionally been. Now I think that's a very valid issue and both your bill and mine won't go into effect until virtually every one of us are gone. So we're not getting the benefit. There are only three people in this room that may potentially even be here. It would seem, and I'll ask your comment, that it would be much better to put this on the ballot more frequently and only have small incremental increases for the voters to approve rather than waiting for such a lengthy period of time and then just to try and catch up with inflation we have something and it looks like such a vast spread of difference that they're more likely to not vote for it. [LR7CA]

SENATOR KRUSE: I would agree, but this is the spot we're in. This should be done each time if you're going...just like a business would set their salaries each time. I also picked up from what Senator Stuthman said. If we put, well, we're going to put something on the ballot. Whatever we put on the ballot, those of us going off the floor, in particular, need to get really noisy about this. You know, it isn't going to add anything to

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my bank account or to my life or anything, some satisfaction certainly if it can change, but we all feel passionately about it. And those that are free to talk about it should be out there and making some noise, writing some letters. And we lacked that last time. I think we figured, well, what did we have, about 50 statewide organizations supporting it. At least I thought, wow, that's good enough. It's not. [LR7CA]

SENATOR ENGEL: Senator McDonald. [LR7CA]

SENATOR McDONALD: I told everybody in my district and every time I spoke for the last three or four years I've talked about our salary and that, you know, basically when you're out there all the time and they see you, they know that it's not a 60- or a 90-day session. It would fail miserably in every one of my counties. I think that when we look at media attention to all of this and getting it out to rural Nebraska, I think that's key because I think the more urban setting, those people understand because the Legislature is down here. They have more in the newspapers, they watch it work. The more rural we get, the less the Legislature impacts them, not that it does really impact them, but the media, it doesn't impact it on the media so they don't have the connection to it. And so we need to make sure that we get rural attention in all of this because that's basically where it fell. And I never saw any ads on TV that supported this. And I think that's where we need to go. We had all the organizations supporting it and we thought it was well covered, but the message did not get out there. [LR7CA]

SENATOR KRUSE: I, Senator, I did the same thing in newsletters. And, in fact, somebody gave me a nice leading thing. I don't know if this is right to do, but they said, well, how should we vote on all these amendments? We got all these amendments. I said, I would be exceedingly uncomfortable telling anybody how to vote. But I feel free to tell you how I'm going to vote so I did. And most of the amendments that I said they should, you know, they will be beneficial to them in city finances and stuff didn't pass. So there's a frustration there. I'm a little bit of a cynic here. I don't think that we can get enough information out there that the public, the voting public, you know, the rest (inaudible), the voting public can really understand these kind of issues. I looked carefully at the ballot language and I urge us to do that. What's going to be staring at them? For the person that's trying to figure out what's happening to his dog and his wife and the world, that person just reads that over and understands what it's implication is. I know that is really tough. I've spent a lifetime writing stuff and my goodness. But it's going to take all of us to put it out there and I'm sure the organizations like Lynn Rex and so on are going to go at it in a different way this time. [LR7CA]

SENATOR ENGEL: Senator Erdman. [LR7CA]

SENATOR ERDMAN: I think, Senator Kruse, I think the focus is not on the five numbers that you put in the bill if you do it the way Senator Preister has. I think the five words that you look at in your bill that are problematic are "as determined by the Legislature." I

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think the people jealously guard their ability to set our salary. And I think that you can create any method you want to, but as long as they lose that right, they're going to be skeptical at the outset. And I think if you look at what was successful, it was being honest, and that was the discussion we had in the Exec Board two years ago. Senator Beutler and others were adamant that we had to do it a different way. It came up on the floor. A lot of us that said we're not comfortable with this because we're not sure the public will buy into the "as determined by the Legislature" voted to show solidarity. But I think it's more than just how you write it. I think Senator McDonald's and others points of who has that responsibility, I think that is the linchpin that this thing hangs on. And, you know, it's not putting five numbers in the bill and giving them sticker shock. I think it's them reading that and going, they're going to police themselves. We do that now. No thanks. And I think we have to be conscious of those discussions whatever we do and whatever amendment we would choose to proceed if we do. [LR7CA]

SENATOR KRUSE: You're right. And I, you know, I'm...the more I sit before you here the grumpier I am with myself for...I didn't ever send it back to Bill Drafting. I looked at that and thought, oh, I don't like that but that's...I didn't like several things about it. I was hoping the 1988 wasn't in there. Well, it has to be and so on. And I looked at that and I thought the Legislature isn't determining. At any rate, that clearly needs to be out of there. [LR7CA]

SENATOR ENGEL: One thing the proponents two years ago and the proponents now of this bill, well, none of them will be here to receive the benefits of. [LR7CA]

SENATOR KRUSE: No. [LR7CA]

SENATOR ENGEL: This is for the future of the Legislature so that's one thing we should keep in mind. Are there any other questions of Senator Kruse? If not, thank you, Senator Kruse. [LR7CA]

SENATOR KRUSE: Thank you. Thank you very much. [LR7CA]

SENATOR ENGEL: (Exhibit 3) Are there any other proponents? Are there any opponents? Are there anyone testifying in a neutral capacity? We do have a letter from the League of Municipalities also promoting this bill and then we have two letters that are in opposition. We have those for your perusal. And I...do you wish to close? Senator Kruse waives closing. And with that, that ends the hearing on LR7CA. And now LR3CA. Senator Friend, would you please come forward, sign in. And we know you but probably still should go through the procedures. [LR7CA]

SENATOR FRIEND: Thank you, Mr. Chairman. May I sign in right when I am completed because I'm going to be brief? [LR3CA]

SENATOR ENGEL: You can do it however you want, Senator. [LR3CA]

SENATOR FRIEND: Thank you. Chairman Engel, members of the Executive Board, thank you for sharing your lunch hour with me or allowing me to share your lunch hour. LR3CA is a resolution proposing a constitutional amendment to change the Nebraska Legislature from a unicameral to a bicameral body. It would vest the legislative authority of the state with two houses, a Senate and a House of Representatives. The change, if approved by the voters, will provide more checks and balances to the legislative process, I believe; would also, I believe, bring more information and public input to the elected representatives. And I also believe that it would create a more deliberative process less prone to act without careful thought and consideration of issues and consequences. Like I said, I'll be brief. I believe that I've been given some good opportunity in the last couple of days to discuss this issue. I wanted to discuss it here because I think it's our right, it's our duty in a lot of ways, and there's some benefit to it. I'm not doing this because I hate the Unicameral. I love the Unicameral. Thank you. I don't love the Nebraska Legislature because it's a unicameral. I love the Nebraska Legislature because it's parliamentary in nature. There's a bunch of lawmakers that I'm working with and I like working with lawmakers and I'm a lawmaker too. That's why I like it. The reason I'm doing it is because I think it's healthy once every 70 years. George Norris came along, did all the things he needed to do to drive the type of thing that we have now, a good thing in pre-Depression time or, excuse me, during the Depression, probably a good thing at that time--cost effective, made a lot of sense, and he was very successful doing it. But I don't think what George Norris saw, and maybe even shouldn't be, but I don't think what George Norris saw then would he believe the Unicameral should be is what he would like to see it in the form it is in today. I think that there are things that we do that even he would shake his head and say, uh-uh. And the last couple days, the encroachment or the idea of what we addressed in LR8CA, I don't mean to bring that into the discussion but it's relevant, is an example of that. George Norris did see the people as a second house. He did see an opportunity for checks and balances with the people. We have infringed upon those rights over the years. The money, how much would something like this cost? Yeah, it would be more expensive. It would cost the people of Nebraska more money to do this. If you...I would submit to you that if you look at that cost, and I can throw out some numbers here and then look at the cost maybe 10 years or 20 years down the road with what term limits will do to a legislative body with a single house. What is that cost going to be? This wasn't the impetus for me bringing the legislation or the resolution. But I think it's pertinent. I think it's relevant to our discussion. Fifteen years from now the idea that either lobbyists, we love staff members, I mean they're good people, but that staff members, lobbyists, and other folks would be driving public policy, that's a concern to me. And I think it should be a concern to the Nebraska citizen. Now 93 legislators as opposed to 49. Do the math. You're probably talking about another \$500,000 in salaries. You're probably talking about some operational costs that we can't anticipate yet. I would project probably to the taxpayer right out of the gate when this was implemented, \$1.5 million, \$1.6 million. I

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don't have a fiscal note. I can get that for the future just for your edification and for the future needs of the board. Now the reality is...we know what the reality is. I've said it a few times. I don't think that one legislator, particularly me, has the credibility, the statewide credibility or the political weight to perpetuate a change of this nature. I think it needs to come from the grassroots just like Norris' did and Norris put in a lot of time in order to do it to get to the grassroots. But what one legislator can do is raise public awareness. We all often have that ability. All we need to do is drive it. We can promote analysis and we can drive for future change, maybe 5, 10, 15 years down the road. Frankly, I'd like to see it as soon as possible, but I am a realist. I think these discussions will occur again. If I'm not successful, it will occur again and it will occur again sooner than we think. It's not going to be another 70 years. I would stake that claim and take that to the bank. So one legislator driving for future change I guess is what I am. And with that, I hope that wasn't too long, I would be happy to field any questions that you would have. [LR3CA]

SENATOR ENGEL: Are there any questions? Senator Stuthman. [LR3CA]

SENATOR STUTHMAN: Thank you, Senator Engel. Senator Friend, the body that we have now is the Unicameral. We're all registered with a party, either a Democrat or Republican or an Independent. But when we come down here to the Legislature, I feel that, you know, the majority of the people are independent. If we go to the two-house, the bicameral, do you think that there's going to be a lot more emphasis put on by the parties to make decisions by party affiliation, party caucuses as to influence the vote of the legislators? [LR3CA]

SENATOR FRIEND: There could be. Good question, too, and I was hoping somebody would ask that. There could be, but a bicameral legislature, and this is a really important point, a bicameral legislature does not have to be partisan in nature. When Madison and Hamilton and Jay and all the other founders got together and framed our constitution, and when you look at the Federalist Papers, at the time those were written, we were not a two-party country. There were nine or ten. I mean there were parties coming out of the woodwork. A bicameral legislature was not created with partisanship in mind. The blueprint according to the Federalist Papers and other writings throughout the years, bicameralism blueprint is not predicated on the idea that it has to be partisan. People ask me that over and over again and say, do you know when George Washington took office there were...it wasn't a two-party system. They developed that. It was a battle between Madison and Hamilton. And we have what we have because of those two guys today. Now maybe it's a good thing. For us, we've decided from a public policy standpoint over the years nonpartisanship works pretty darn good. It's not part of this package, doesn't have to be. So I firmly believe that that is a separate issue. But more to the point of your question, I hope, yeah, I think there will be more pressure because, see, people are going to say, well, now you have a bicameral. The next step is partisanship. I would fight that. I would fight that idea. I don't believe that's necessary.

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[LR3CA]

SENATOR STUTHMAN: But I do believe it is a possibility. [LR3CA]

SENATOR FRIEND: Pressure could come, absolutely. [LR3CA]

SENATOR STUTHMAN: Okay. Thank you, Senator Friend. [LR3CA]

SENATOR ENGEL: Senator Erdman. [LR3CA]

SENATOR ERDMAN: Senator Friend, I'm...welcome to the committee. [LR3CA]

SENATOR FRIEND: Thank you. [LR3CA]

SENATOR ERDMAN: I'm reading through the details. I think it's easy to get the concept in mind and we have discussed this at length at times. And some of the things that I just have questions on the practicality. And before I get to that, Senator Stuthman, to do that you have to amend the constitution. If you look on page 3, line 12, Senator Friend isn't amending that part of the constitution. We will still be a nonpartisan bicameral if his amendment was successful. [LR3CA]

SENATOR FRIEND: Can I speak to that real quick, though? [LR3CA]

SENATOR ERDMAN: Sure. [LR3CA]

SENATOR FRIEND: What Senator Stuthman, in fairness to Senator Stuthman, he's saying more outside pressure. I mean where people are going to be coming in and saying, okay, you have a bicameral now. The logical next extension is that, you know, that maybe the Republican Party or the Democratic Party are going to take more of a hand. I mean that's the way I read his question, though, but you're right too. [LR3CA]

SENATOR ERDMAN: And I think the example that you gave on LR8CA is similar here. You have to get the voters to approve that. You can have all the outside pressure you want. You still have to amend the constitution. As the bill is or as the constitutional amendment is drafted, it's my understanding that this would go before the voters in November and it would become effective in November of 2010 so that you had the two years to be able to allow folks to run for the second house should it be adopted. Is that accurate? [LR3CA]

SENATOR FRIEND: And to create enabling, that is accurate, and to create enabling legislation. [LR3CA]

SENATOR ERDMAN: The language on page 4 about having the Secretary of State

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preside over the House of Representatives, is that...I understand the logic that we have with the Lieutenant Governor because that's in existing law. Is this just an attempt to try to mirror that in the house? [LR3CA]

SENATOR FRIEND: Yes. And it's also based on some of the research that I've done and staff has done in regard to what other states...there's sort of a model there so there's a history and a precedent. [LR3CA]

SENATOR ERDMAN: The model appears on page 6 where it talks about when bills must be introduced in one house versus another, your language says, "Any bill may originate in either house except bills appropriating money shall originate only in the House of Representatives." Would it be fair to say or is my understanding incorrect that taxation issues generally generate out of the House issue as well as in addition to appropriation bills? [LR3CA]

SENATOR FRIEND: Generally, but both have committees generally that deal...and then a...I'm asking you guys to help me with the term, oh, a...not a secretive committee, but just a committee between the House and the Senate that will... [LR3CA]

SENATOR ENGEL: Conference committee. [LR3CA]

SENATOR FRIEND: Thank you. I've used that term 5,000 times and I lost it...a conference committee that would perform the final budget, yeah, come to the final budget conclusions. And then some provide final Senator closure. Some provide final House closure, depends. [LR3CA]

SENATOR ERDMAN: And the debate I think on a national level is fitting for that question I guess because the House is the people's body that controls the purse strings... [LR3CA]

SENATOR FRIEND: Right. [LR3CA]

SENATOR ERDMAN: ...as they like to claim, and I'm just... [LR3CA]

SENATOR FRIEND: From a federal standpoint, that's the way we do it. [LR3CA]

SENATOR ERDMAN: Right, and I'm just wondering if it's appropriate. There are other technical things just that I've started to mark through here. I think it's provocative to have a discussion and I'm hoping that we can actually, as a committee, discuss it and see kind of what thoughts are knowing full well that I think your analysis is probably correct that it would take a Herculean effort to make this change. But Rome wasn't built in a day and I don't think the discussion deters or detracts from our process or our body. I think it gives us the opportunity to analyze where we're at and to determine any

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improvements that might make us more effective. [LR3CA]

SENATOR FRIEND: Can I respond to that? I am not...my intent has never been in a hearing, interim study, or here to waste this board's time. The time is very valuable. I didn't want to waste the Legislature's time the last two days. But I truly believe these are some of the key things that we're brought into public service to deal with, along with the people. But this is important subject matter and not just because I thought of it or I haven't just thought of it, I mean, other people have, too, before me. But this is what we do and this is the way we operate. So I'm not here to waste anyone's time and I know it's valuable. I wouldn't have done that. I would have pulled this in a heartbeat if I would have thought that you were going to summarily dismiss this. I know that you have the ability to do so. But I also know that there is a sense of analysis on the Executive Board. There always has been. There's a precedent for that. I would defer to that. [LR3CA]

SENATOR ENGEL: Any other questions? Senator Preister. [LR3CA]

SENATOR PREISTER: Senator Friend, I certainly know of your sincerity in doing this. I want to understand, be sure I'm clear on your motivation. As somebody who doesn't lightly expand the role of government, doesn't lightly increase the budget... [LR3CA]

SENATOR FRIEND: Correct. [LR3CA]

SENATOR PREISTER: You are somebody that's now proposing a huge increase in both of those areas. And what I hear you saying is your motivation is that particularly with the onset of term limits so term limits has a big impact here, that you're seeing a shift and more responsibility, more authority, more power vested in, I believe you said staff and lobbyists. Is that an accurate characterization of your motivation? And if that's only part of it, what else? [LR3CA]

SENATOR FRIEND: That's not the impetus for the bill, but one of the reasons, and you made a good point, I have been a person on occasion that's railed against, you know, government spending under certain circumstances. I'm looking for some government spending here. And I will raise my hand and admit that. But I also think that some of that government spending can be alleviated or at least tempered. What I mean by that is you can't do anything about the salaries of a legislator. You have to, constitutionally, unless you changed it, you have to pay that legislator 12 grand a year. Now other than that, you can get awful creative with staff and everything else. I have, as a committee chair, I have three staff members, one-day committee chair. But with, as just a legislator, you have the ability to have two other staff members. Why couldn't the House member from your district have one of those staff members? I mean things can be done in order to be as efficient as we possibly can. That's one thing. And then the second thing is, you bring up a good point, huge I think is a relative term. We're staring at a million dollars no matter what and those are costs that rotate every biennium. You know, so some of that



cost will never go away. They're not just start-up costs. There's housing for people. I suppose you get to a point where you're sharing, you know, offices and they do that, you know, in D.C. and other states will do mostly share office type of stuff. So...but to be fair to your question, yeah, I think term limits have entered my mind on this. It wasn't the impetus. It wasn't the reason that I did it, but it has entered my mind. And I think that it's entered a lot of citizens' minds too. I'd like to find out. You know, you can throw that term limit out there and I am not looking to repeal that. What I'm asking for is an open-minded approach to legislative government. And I don't think that's too much to ask for the citizens of Nebraska to analyze that nor us. I think that that's not too much to ask for. As far as tossing that appropriations grenade out there, you know, I guess I don't like it, but there's a cost-benefit analysis that you have to do. What's it going to cost the state 20 years down the road if we're not operating in an appropriate legislative manner? [LR3CA]

SENATOR ENGEL: Senator Erdman. [LR3CA]

SENATOR ERDMAN: One of the answers I think you gave, Senator Friend, was one of the things that I have thought of is you could share those staffing...share those individuals doing staff responsibilities as a majority of other states do. I know a lot of other states only have part-time staff. I think we're fortunate on behalf of our constituents to have those full-time staff members. [LR3CA]

SENATOR FRIEND: Some here, too, sorry. [LR3CA]

SENATOR ERDMAN: Yeah. The thing that I think is important and I think you've brought this up is that you can't have this discussion in a vacuum. And so any issues that affect us today would have to be in the discussion. And from my conversations with you before, in other exact or other real similar proposals to this have been introduced in an attempt to get around term limits at their impetus. Your attempt, as I understand it, is a wholesome discussion of legislative oversight over policy and representation of the people. You can't ignore the fact that term limits are a part of our process, but as I would understand your intent, this is not a we're going to talk about a way to possibly get around term limits. This is we should have a fundamental discussion about the organization of the legislative branch of the state of Nebraska. [LR3CA]

SENATOR FRIEND: That's right. Senator Preister's point, though, is term...it has entered my mind. I mean the term limit idea has entered my mind. That wasn't the impetus. What I believe is that bicameral legislatures do make better legislation. It's no slam on us. It's just the nature of the beast. If Senator Preister and Senator Erdman got together and created some legislation and you had, you know, four more sets of eyes on it later on, the same type of people that we are, more than likely...now we could water it down and make it worse, but more than likely we can add something to that discussion. You have more eyes on legislation. There are more checks and balances. I

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don't think anybody would disagree with that. But finally what you have is more representation for the people. Why is having a House of Representative member and a senator out near Bayard a bad thing for that taxpayer? It's going to cost more. We've already identified that. We haven't identified exactly how much. But why is that a bad thing? Why is more representation necessarily a horrible thing? And the term limit stuff, that's peripheral stuff that comes flying in that people ask me about all the time. And I know I've talked to senators about it. They're like, you know, with term limits maybe that's not a horrible idea to discuss. Well, that wasn't my original thought, but, yeah, I guess. So yeah, fair assessment. [LR3CA]

SENATOR ERDMAN: And the last question I would have and, again, we've had this conversation. I think it's misinterpreted a lot in rural America, rural Nebraska, the purpose or the ability to have additional representation doesn't grant the same authority to this body that the federal congressional representatives have. In other words, we would simply have the same number of folks in a separate house based on population, whatever that would determine to be, in your bill it's 31-62. So you'd have 31 senators and then you'd have 2 representatives from the same area. [LR3CA]

SENATOR FRIEND: Correct. [LR3CA]

SENATOR ERDMAN: You wouldn't have 93 senators representing each county and 31, you know, House of Representatives members representing population that the courts have ruled consistently that all representation on a state level has to be done by population, one person, one vote. And so whatever we would adopt as a change the representation is added by having more people from the same area, not having a different structure of representation. Is that accurate? [LR3CA]

SENATOR FRIEND: That's accurate. And bicameralism, the success of bicameralism from a federal standpoint and from the state standpoint, 49 other states doing it, that doesn't...the representation of the demographics or the differences between the federalism and the way the federal government makes law and the way states do it, that does not preclude the states from still promoting in-depth representation or more representation for a particular area. So that is...I agree with that assessment, but you don't need to have it look exactly like the federal government from a demographic standpoint for a bicameral to be successful. I guess that's what I was getting at. [LR3CA]

SENATOR ENGEL: One thing, comment I'd like to make, one thing I hear from a lot of people is we do not have that conference committee you're talking about. [LR3CA]

SENATOR FRIEND: Correct. [LR3CA]

SENATOR ENGEL: In other words, everything we do is wide open. There's nothing

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behind closed doors and that's why they like the openness of the unicameral system because we're like being in a glass bowl. I mean everything we do is open to the public no matter what we do, and that's one. [LR3CA]

SENATOR FRIEND: Yeah. And can I quickly comment? [LR3CA]

SENATOR ENGEL: Oh, certainly. Certainly. Yes. [LR3CA]

SENATOR FRIEND: Yes, that's very true. But there are bicamerals throughout the nation where some are more secretive from a conference committee standpoint and some are less. Some are not. I mean you walk into a room like this and be involved in the conference committee analysis, media is involved, stuff like that. So it varies. And I would...that's one of my concerns is how the conference committee...and that's where the enabling legislation and the legislature gets together and deals with the way that's going to look. [LR3CA]

SENATOR ENGEL: Okay, thank you. Senator McDonald. [LR3CA]

SENATOR McDONALD: So clarify to me. You're saying that...in coming off Senator Erdman's comment about the House of Representatives would not necessarily be equal across the state, they would still be done by population. [LR3CA]

SENATOR FRIEND: No. For example, from a federal...well, maybe. From a federal standpoint, let me give you an example. South Dakota has one House member, Stephanie Hersech from...I don't know where she's from, Sioux Falls, I could be mistaken on that. She...one House member, but they have two senators. So it doesn't matter what your population is. You're going to get your two senators. It doesn't matter where your state is. You're going to get that. But the House is set up, well, here's your population. Sorry, here's what you get. That's not the way the states can do it. What you could have in your area is one senator and more than likely you could have two house members. [LR3CA]

SENATOR McDONALD: The House members are done by population. [LR3CA]

SENATOR FRIEND: They're, yes. Both are technically. [LR3CA]

SENATOR McDONALD: Both are technically. [LR3CA]

SENATOR FRIEND: Senate and House. [LR3CA]

SENATOR McDONALD: So basically the rural area has no more difference in representation than they do now. [LR3CA]

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SENATOR FRIEND: Excellent point. [LR3CA]

SENATOR McDONALD: And you're saying it's done by population. And that's one thing that I hear from my rural constituents. You know, we don't have the voice down there because all the population is to the eastern part of the state. And so any thought of going to a bicameral in their thoughts, okay, we're going to get more representation. Doesn't sound like that's the case. That the base, the representation will still be done by population... [LR3CA]

SENATOR FRIEND: Absolutely. [LR3CA]

SENATOR McDONALD: ...and so it's not going to serve them any better than what we have now except it's going to cost them more because...they won't even give us a raise for our \$12,000 but yet we're going to have to end up paying additional people to serve. [LR3CA]

SENATOR FRIEND: Well, that's a good point and I can't...if I were to argue with you on that or if we were to debate on that, the only thing I could probably say is that what it would offer the opportunity for, for that person in that rural area is that if they don't like something or if they do like something, they have one more person...like if I went to Senator Stuthman, I lived out in Platte Center and I said, Arnie, I really like this idea. And Arnie said, I hate it. Well, then if you lived right by us I can go to you and I say, Vickie, you know, this is a great idea. And you might say, all right, you know, I think you're right. You talk to Arnie, things, I mean, there is more...theoretically, there's no more representation. Technically, there is. And you have another voice in another house to try to promote ideas that relate to your community. Now Omaha gets more too. But the key to that is you have another house that can stop...I mean if you have four Omaha renegades in the Senate and you don't have as many of the renegades or the mavericks in the House, you can work with the House to say stop the Omaha renegades over in the Senate. I mean there is more opportunity to do things that you just can't do in a unicameral I guess is what I'm saying. So I wouldn't disagree with you. You're not gaining. And I've never made that assertion either. You're not gaining a value add in that area. But what you are gaining still technically is more representation, another representative to hear your views and hear your ideas. [LR3CA]

SENATOR McDONALD: And my thoughts were politics. [LR3CA]

SENATOR FRIEND: Possibly. [LR3CA]

SENATOR ENGEL: Any other questions? Senator Erdman. [LR3CA]

SENATOR ERDMAN: Just one last thing. [LR3CA]

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SENATOR FRIEND: I can't argue with Senator McDonald. [LR3CA]

SENATOR ERDMAN: From our discussion front of the Government Committee this fall, I think one of the things that came out and I think rightfully so, some of the opposition to your proposal, which actually shouldn't have been discussed the way that it was, but that's the avenue that they chose, some of the opposition was that we would somehow abandon the practices that serve Nebraskans well in adopting a different method of governing from the legislative branch. It would be my understanding from our conversations that your intent is to take the best ideas that we have. There are states that don't have conference committees as people determine conference committees to be, but that we would adopt the openness of those processes in our process regardless of whether it was a one-house or two-house system and to still facilitate it in that manner. The difference would be that we would have two houses and try to do the best we could to provide that same open process that we do currently under our existing system. [LR3CA]

SENATOR FRIEND: Well, I think that's fair. But we're the ones, you know, that would be driving those type of changes and ideas. I mean if Senator Patrick Engel doesn't like conference committees, guess what? He's on the floor of the Legislature saying not here, caballero. Take those away. So, yeah. I mean but this is so...this is in its infancy and it's hard to get past the infancy when nobody will hold the baby. [LR3CA]

SENATOR ENGEL: Are there any other questions? [LR3CA]

SENATOR FRIEND: Huddle the baby (inaudible). [LR3CA]

SENATOR ENGEL: If not, thank you, Senator Friend. It's been very edifying, very informative. [LR3CA]

SENATOR FRIEND: Thank you. [LR3CA]

SENATOR ENGEL: Any other proponents? Are there any opponents? We do have a couple of letters that are opposed to this for the record (Exhibits 13, 14). Are there anybody want to testify in the neutral capacity? If not, would you like to close? [LR3CA]

SENATOR FRIEND: Just to say thank you unless there are any questions I'd be happy to... [LR3CA]

SENATOR ENGEL: Thank you. That ends the hearing on LR3CA and that ends our meeting today. And thank you all for coming. [LR3CA]

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Disposition of Bills:

LR1CA - Advanced to General File.

LR3CA - Indefinitely postponed.

LR7CA - Held in committee.

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Chairperson

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Committee Clerk