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Rules Committee
January 07, 2016

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The Committee on Rules met at 1:30 p.m. on Thursday, January 7, 2016, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on proposed rules changes. Senators present: Tommy Garrett, Chairperson; Dave Bloomfield; Galen Hadley; Bob Krist; Heath Mello; and Paul Schumacher. Senators absent: None.

SENATOR GARRETT: Welcome to the Rules Committee. We've got ten rules to go through and I don't anticipate it's going to take a whole lot of time to get through them. And a couple of them are repeats from last year that we're pretty familiar with. But we'll start off with Senator Kintner on...for proposal number one to rules. Come on up. I guess I should let everyone introduce. I think everyone...if everyone, all the members would like to introduce themselves.

SENATOR SCHUMACHER: Paul Schumacher, District 22.

SENATOR KRIST: Bob Krist, District 10.

SENATOR GARRETT: Tommy Garrett, District 3.

SENATOR BLOOMFIELD: Dave Bloomfield, District 17.

SENATOR MELLO: Heath Mello, District 5.

SENATOR HADLEY: Galen Hadley, District 37.

SENATOR GARRETT: Welcome, Senator Kintner. Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you...oh, wait, but then...

SENATOR KINTNER: I think I can do that, yes.

SENATOR GARRETT: (Laugh) yeah.

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SENATOR KINTNER: I'm a politician. It's tough but I'm going to try my hardest.

SENATOR GARRETT: Welcome.

SENATOR KINTNER: Thank you, Mr. Chairman. As you know, we talked about this last year. And we voted on it last year. And the body has decided at that point that they did not want to have transparency in the elections for Speaker and Committee Chairmen. I introduced a bill. It got to the floor. And we debated again. And I remember Senator Krist said, you know, I may very well support it, but that's not the time and the place to do it, you need to come back to the Rules Committee and do it the right way. And I'm here to make the request again. And I think that when people look at our Unicameral, they look at it as something special. And they really expect us to be much different, much more mature, much more reasonable, much more logical than all these other 49 states that are partisan and two houses and all that. And, you know, we are very transparent in most of the things we do. And people take a lot of pride in that. When you tell them that we have secret votes for leadership, they're like, what, really? No one knows it. It's not an issue because no one ever thinks about it. But when you tell them, they think that just isn't right; that doesn't fit within the Nebraska way of doing things. We do things out in the open. We do things in daylight, and the media and the people can look at what we're doing. The people, more so in our state than any other state, are the second house. And if the second house is going to be effective, they need to know what we're doing. And that is in the spirit that I bring this. One thing I heard said a lot was that, you know, this is going to create hard feelings, this is a tough enough job and, you know, there could be some hard feelings. Well, I can tell you that there was four of us that made our votes known. And I posted my votes from the floor the day I cast them for leadership. And I said exactly who I voted for. And then I put it in one of my weekly columns who I voted for so my district knew who I voted for. And I've got to tell you, I haven't seen those hard feelings yet. I have 48 colleagues I get along very well with. We agree and we disagree like we always do. They need my votes. They need to get to 25. And I need their votes because I need to get to 25 on my bills. And I just haven't seen that happening. So I know that that did not happen. There were not a lot of hard feelings because I didn't vote for someone for this or didn't vote for someone for that. It just didn't happen. And I don't think there is anything that is going to disrupt the nature of our body here if the votes are made public. And I'm more convinced of that now in my going into my fourth year than I've ever been. And I've watched this whole

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process a few times. I just don't think that we're going to have any problems. There a thing that was said was that it would be partisan. I don't think so. We are who we are. We know who everyone is. We work with people no matter what party. I don't see that changing. I just don't see how letting your constituents know how you voted and standing by your vote and proudly standing by it...we have great candidates. We had great candidates for almost every single office. I could have voted either way for any offices and we wouldn't have had an unqualified person as Chairman of any of those offices. So I just haven't seen any evidence of that. There were some claims of it. A year down the road I don't see the evidence of that. I'm asking this committee to finish the job and make this Legislature the people's Legislature or make our Legislature open so the people's Legislature, the second house, can see what we're doing and they can adequately weigh in and weigh in on what we're doing and see what we're doing and judge what we're doing. I think that's the fair and the right thing to do.

SENATOR GARRETT: Okay. Any questions from the committee? Senator Bloomfield.

SENATOR BLOOMFIELD: Thank you, Chairman. Senator Kintner, I went to some of my constituents with this idea and asked them what they thought we would gain by doing what you are requesting. And I was resoundingly told that, we don't know who is running for what down there, we don't care, you guys know who is running, that the secret ballot is perfectly fine with us. What do you actually hope to gain by having this done? Because from I've been able to ascertain, the people don't care about this portion of it being blown open.

SENATOR KINTNER: I think most people do not know one person from another.

SENATOR BLOOMFIELD: That's correct.

SENATOR KINTNER: There are...certainly some people know. I think the concept, even if people don't know who is running, the concept of them not being able to know that we could potentially hide something somewhere when it is important to them they don't like. I can't say every person knew what was...who was running for each office and why they're running and what the back story was and all of our history. I don't think very many people knew that. I think the organizations know that. They have something before us and they can't have favorites and

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stuff. I can't say that people know that. But I do know they don't like the concept of hidden stuff. They just think, there's something stinks in Denmark, when there's hidden votes and they just don't like that concept. And I can't say I disagree with them.

SENATOR BLOOMFIELD: Okay, thank you.

SENATOR GARRETT: Senator Mello.

SENATOR MELLO: Thank you, Chairman Garrett. And thank you, Senator Kintner. Senator Kintner, would you probably...would you agree that people who have been most vocal about this issue are interest groups, political parties, ideologically driven groups over the last few years publicly have been the ones talking about this more than anyone else?

SENATOR KINTNER: Can you name a couple that I may have missed? I'm not...

SENATOR MELLO: I...

SENATOR KINTNER: I've not heard anyone pushing it to...I made the issue. Until I thought it was the thing to do, no one had ever come to me about it. I just looked at the body and go, that doesn't seem right, I think it needs to change. So do you know...can you know any that were making an issue of it?

SENATOR MELLO: Well, I think specifically in the year 2012, beginning of 2013, if I'm not mistaken, I think the Nebraska Republican Party was the initial organization that made this very publicly clear the year that you started in the Legislature that they didn't want to see secret ballots anymore because it then meant that they couldn't hold members of their political party accountable. And so the question...I'm new to this Rules Committee, but I've had a view on this issue for a while in the sense of I've yet to understand, outside of those driven by ideology and with the desire to be able to manipulate and control how other people vote, that this isn't...this has no real impact on transparency because my constituents have the same view that Senator Bloomfield's is, which is they're entrusting me to make the decision of who I want to elect as Speaker, who I want to elect as the Business and Labor Chair or the Exec Board Chair. And they

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just see this as, for some reason or another, a way to give influence to people outside of the Legislature instead of trusting us as senators. And I guess my question would be to you is, how is this proposal not giving more power to political parties or interest groups or ideologically driven groups that then gives them the ability to hold senators accountable for what they may believe as who they should have or should not have voted for, for leadership positions?

SENATOR KINTNER: To my knowledge, no one ever said a word about it in 2012. I took office in 2013. I looked at it. I go, that's kind of weird. But I'm brand new--I can barely find the Senators' Lounge--so I didn't say anything. But I knew that in my heart it wasn't right. So I brought it up the start of the next session. The Republican Party, to my knowledge, has never taken official position on this. There are people within the Republican Party, once I brought it up, they said, heck, yeah, we ought to be doing that. I asked myself, if I'm in the minority party, if I'm Republican Bill in Vermont, am I so anxious to have public votes? I think I'd probably bite the bullet and do it. I think I would say, you know, I've got to be consistent, I've got to be ideologically consistent, I have to have a consistency with me no matter if I'm in the majority or the minority. You talk about ideology. Yes, I'm driven by ideology. My ideology wants smaller government. My ideology wants limited government; it wants individual liberty; it wants free markets. I'm definitely driven by that and I don't apologize for that. People sent me down here to do that. And to show that I'm doing it, I'm going to tell them who I voted for. And I'll tell them, well, why did you vote for this person or this person? Because I thought that person would advance limited government more than that person. I got no problem in saying that. I just don't and I think people expect me to. So I hope there was an answer in there for you.

SENATOR MELLO: Yes and no. I guess a follow-up question would be is--my understanding under state law: that no other legislative body in the state requires open ballots or public roll-call votes on every leadership election--what separates the Legislature from the Papillion School Board or the Plattsmouth School Board or the Plattsmouth City Council or the Cass County Board of Commissioners when they elect a chairman of the board? How is to some extent the Legislature, which is also nonpartisan from these other nonpartisan legislative bodies across the state, why are we different in regards to allowing members to select who they think is the best person without trying to bring up ideology or political party in the process?

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SENATOR KINTNER: Senator Mello, that's a great question. I had a bill that did exactly that. But this is beyond the scope of this body. Absolutely I think every elected body should have no secret ballots and no secret votes. I was consistent with that. I had a bill that went to the Government Committee that did that and they chose not to bring that one up. They brought my other bill out that we voted on. It wasn't quite as sweeping as that. But I did introduce that bill, so I agree every elected body should do that. Today that's beyond the scope, so I would say start with us. Once we do it here, I think we'll have a stronger case to do it across the rest of the state.

SENATOR MELLO: I'm going to give you one more chance to answer the question I asked before...

SENATOR KINTNER: Okay. I'm sorry. I'm sorry.

SENATOR MELLO: ...to see if you can get it again.

SENATOR KINTNER: Okay.

SENATOR MELLO: How is this proposal not giving more influence to outside organizations, whether they're political in nature, ideologically driven in nature, or just a special interest that wants to see something happen in a committee and if they get a certain Chairman or Chairwoman they will get it done? How does your proposal not give them more influence over the legislative process?

SENATOR KINTNER: Well, we only give them the influence that we allow them to have. We only listen to them at our own risk or our own reward, for that matter. I think there's an equal number of groups that would be on the liberal spectrum as there is on the conservative spectrum. I would guess, if the conservative people started pushing for this, then the liberal people would push over here. Everyone gets their say. Everyone gets to comment. Everyone gets to see it. And I think if everyone gets to comment, everyone gets to see it, if the liberal pressure groups and the conservative pressure groups get to do it, I mean they're all going to see it. So I would think if the conservative pressure groups, whoever they may be, are pressuring people, then these groups over here would pressure them too. And it's up to us to be pressured or not pressured. I'm not

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sure if anyone could ever take claim for pressuring me to do anything that I've not wanted to do, that I've not been predisposed to do anyway. As a matter of fact, I'm probably lobbied probably just about least of anybody in here. I don't get lobbied a lot because I clearly state where I stand and I...so I don't think I get pressured much. Maybe some people do. But that's up to us to stand firm on what we believe. And if we're getting pushed around, then that...I mean I...don't get pushed around. Don't listen to the people. Be independent. You don't have to listen to anyone.

SENATOR MELLO: Using your answer though, would it be suffice to say that we would be changing the internal operations of the Legislature for our leadership elections that would almost begin to rival what political campaigns are, because you would have then outside influences being able to send mailings and do postcards and do phone calls to constituents and start to organize what they want to see be the leadership of the Legislature because people have to do a public vote in the process? Isn't...doesn't that just turn what would be more of an organizational aspect of how we run our show day to day, turn it more into a day-in, day-out political campaign which, as we've seen what happens in Washington, that's why they're broken, that's why they don't operate well, that's why we can't get things done as a nation?

SENATOR KINTNER: You know, I'm about as involved in the political machine here of the state as anybody in the Legislature. No, it's not going to happen. The Speaker and our leadership don't have that power here. The speaker of a partisan legislature can kill bills and make sure they get signed here. That doesn't happen here. It's not...no one is going to spend the money to do that. It's not that big of a thing to spend that kind of money and do that kind of organized effort.

SENATOR MELLO: How do you know that?

SENATOR KINTNER: The parties here just don't have that kind of money.

SENATOR MELLO: How do you know that, that someone...that a wealthy benefactor somewhere along...how can you say a statement like that without knowing that...

SENATOR KINTNER: What, you mean like Dick Holland or somebody?

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SENATOR MELLO: Or Joe Ricketts, for that matter.

SENATOR KINTNER: Governor Ricketts or...

SENATOR MELLO: How can you...

SENATOR KINTNER: ...Warren Buffett maybe?

SENATOR MELLO: Or either one?

SENATOR KINTNER: (Laugh) So, no, I don't see it happening.

SENATOR MELLO: Okay.

SENATOR KINTNER: I've been involved in politics. I don't see that happening. But I think there's...it could be equal pressure from both sides.

SENATOR MELLO: Okay. Thank you.

SENATOR GARRETT: Speaker Hadley.

SENATOR HADLEY: Senator Garrett. Senator Kintner, did you say at the beginning that this was to bring us more into line with other state legislatures?

SENATOR KINTNER: No. It would bring us more in line with generally as we're perceived to be: special, different, open, and transparent. And we're generally open and transparent in most things we do here. So I thought this...

SENATOR HADLEY: I don't think it would...

SENATOR KINTNER: ...this would just...

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SENATOR HADLEY: I don't see people seeing that because I spent the summer going to meetings with other legislative leaders all the way from Quebec to Washington. And the consistent question they ask is, how does Nebraska work? And they were astounded that we elect leadership by secret ballot. So I say, how do you do it? Well, there's two ways they do it. One is that they elect the majority leader. The party that's in power elects Madigan in Illinois. And Madigan picks every member of every committee and picks every chair of every committee and has the ability to take them off at will. If they don't do that, I said, well, do you hold elections on the floor? Yeah, we meet and we call it a conference, we call it a caucus, we call it whatever it is and we meet in a back room, we don't invite the press, we meet in a back room and we decide, because we're the majority party, we decide who is going to run for chair of revenue, who is going to run for chair of judiciary, who is going to run for appropriations chair, then we come out as a bloc and vote that way. And I said to a speaker from a southern state, I said, how do you hold the people to their vote? Well, a couple ways: first, none of their bills ever get to the floor; they never get to the committee that they want to be on; and I also control the money that they need for reelection. So, he says, I have 100 percent obedience to the slate that the party comes up with. My only concern is, Senator Kintner, yours is the first step down that line that two years from now, four years from now the majority party says, let's get together and not have two Democrats running against each other for Appropriations Chair, let's decide who we want as a party to run. And so we will end up with a Republican and a Democrat running, and it'll be whatever party happens to have the majority of members will elect that person. So if we're going to do that, maybe it's time to start looking at making our Legislature partisan, you know, do away with the nonpartisan. Let's start acting like some of the other states. The one thing that every speaker I talked to, or president pro tem in the senate or whatever, boy, they don't want to give up one bit of their power to say who is in charge. And they go through a pro forma system of coming to the floor and saying, we're going to have an open ballot, and the Republicans vote for the Republican and the Democrats vote for the Democrat and whoever has the most members gets a leadership position. I'm just worried we're going down that. That's the way we're (inaudible).

SENATOR KINTNER: Well, two things. Yes, I'm very familiar with that. I've got friends all across country, legislatures. And so I know how that works, especially since I spent most of my time in a state that had...that was the kind of system. But I see it as the last step and you see it as

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the first step. This would be just the last step in having total transparency in everything we do. We're pretty transparent and we can be very proud of that. This will be the last step to make sure every single thing we do is transparent and we go about our life as normal. I just don't think that our political parties have any power. I've never seen any political power from my party, Republican Party, telling me what to do, telling us how to do it, or even bringing us all together for a strategy meeting or nothing. There has been nothing from the party. So I don't see that changing. I don't think anybody wants the party to be involved. I've not heard a call from any of my colleagues, boy, we need that party to be more involved. They kind of like coming down here and doing it their way, the way they like to do it. And they only have to report that way to their constituents and justify it to the constituents. This vote is justifying it to the constituents. So I think it's a last step. You see it as a first step. I just don't see it that way.

SENATOR HADLEY: Well, one last question. You said there were four people that put out how they voted. How do I know how you voted? You tell me on Facebook this is...

SENATOR KINTNER: Well, this...I...right.

SENATOR HADLEY: You tell me on Facebook how you voted.

SENATOR KINTNER: Well, you know,...

SENATOR HADLEY: But I don't know...

SENATOR KINTNER: Well, I...

SENATOR HADLEY: You signed...four people signed an anonymous ballot that doesn't have anybody's name on it and then they put on Facebook that I voted for this person.

SENATOR KINTNER: Well, all I can say is this is who I say I voted for and if you don't like who I say I voted for, you could have it...

SENATOR HADLEY: Okay, I'm just curious when you...

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SENATOR KINTNER: Right. That's all I can do right now. That's the best I can do to be transparent. And I think that at least people in my district know that, you know, I pretty much tell them how it is.

SENATOR HADLEY: And I'm not impugning you at all, Senator Kintner.

SENATOR KINTNER: Yeah, that...no, I...

SENATOR HADLEY: I'm just saying...

SENATOR KINTNER: Theoretically, yes, yes.

SENATOR HADLEY: ...theoretically, you know, I could say, yeah, Galen, I voted for you, because you won, right?

SENATOR KINTNER: So I think that would be another reason why we should just have open ballots then.

SENATOR HADLEY: Okay.

SENATOR KINTNER: Okay.

SENATOR HADLEY: Thank you, Senator Garrett.

SENATOR GARRETT: Thank you, Mr. Speaker. Senator Schumacher.

SENATOR SCHUMACHER: Thank you, Senator Garrett. And thank you, Bill, for bringing this discussion again here. Basically this is focused at who is going to be the Chairs of the committees, right?

SENATOR KINTNER: Yes.

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SENATOR SCHUMACHER: Okay. Do you feel that you have any less power or influence as a senator because you're not a Chair?

SENATOR KINTNER: No, not really.

SENATOR SCHUMACHER: So really this is talking about kind of just administrative--who is going to hire the staff, who is going to work the calendar. There's no...I've read through the Rule Books. I'm sure you have too. There's very little real power that is left in our Chairs, particularly when we're term limited, isn't that true?

SENATOR KINTNER: We have the least powerful Chairman of any states that I know of.

SENATOR SCHUMACHER: Right. So we're talking about an administrative, ministerial job, rather than a powerful job like the Speaker just described where you can whip a whip and put everybody into place. You didn't run for a Chair. I didn't run for a Chair. It was my choice last time around, probably could have had a Chair somewhere here or there. But I sure don't feel that I've lost any power. I don't think you feel you've lost any power. The magic here is that we are all 49 of us equally powerful. If we can get five votes to get something out of committee, we're good to go. We don't have any secret powers. We don't have to...we can't compel people to do anything if you're a Chair or not. So what's this all about?

SENATOR KINTNER: Well, I guess since we don't have any power, then doing this can't hurt us, can it? Right? I mean, if it's not that big of a thing, just tell them, just tell them, just tell them what you did. I mean, if it's not that big of a thing, just tell them what you did.

SENATOR SCHUMACHER: Bill, Senator Kintner, you said the parties don't get involved and you've never seen them get involved.

SENATOR KINTNER: That's correct.

SENATOR SCHUMACHER: I probably served 10, 15 years on the central committee of the Republican Party; I didn't even remember the count, but probably around 8 as a county chairman.

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When I got elected to the Legislature, I whimpered at a central committee meeting that I thought that maybe the winner-take-all thing was not a great idea. Virtually immediately, a resolution was passed condemning me. Okay? Boy, if you don't do this, next time we're going to take you to the cleaners. They get involved. And if you're a...even if they don't carry through with it, it's the fear that they might that impairs. You are making a simple decision of who do you think would be the better committee manager. Right now we aren't broken. Every vote we take on every material issue is in public meeting, posted on the board. You know, we can't even pick our ears without the camera being on us. So, I mean to say that we're not transparent is kind of stretching it.

SENATOR KINTNER: Well, Senator Schumacher, you're making my point. Everything we do is transparent. This just is the one thing that stands out that's not, the one thing we do that's not transparent. And I'm just asking that we be totally transparent all the way through the process. There's nothing that we do that the people can't see. It's just consistency all the way through. I have never had the Republican Party tell me to do anything. I've...they pass resolutions all the time at the state party convention. I've never read the entire platform. Like I say, I'm going to, but I haven't at this point. I just know what I'm going to do. I go do it. And I've not had a problem. I guess I could get cross-eyed at some point. But, you know, I write weekly column in my district. They know what I stand for. They know what I do there. I just can't see the party ever telling me to do something that it's going to thread me. I think they can't. They just don't have enough power.

SENATOR SCHUMACHER: the people in my district that I've talked to have much the same response as Senator Bloomfield and Senator Mello, so, but, you know, it's an interesting discussion. Thank you.

SENATOR KINTNER: And you bring up interesting points. I appreciate you being frank and honest with me. I always appreciate you always dig down a couple layers and bring out something we don't think about sometimes. So thank you very much.

SENATOR GARRETT: Any other questions? Okay.

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SENATOR KINTNER: I thank everyone for their time. It was more time than I thought I was actually entitled to, so appreciate it.

SENATOR GARRETT: Oh, thank you, Senator Kintner.

SENATOR KINTNER: All right. Thank you.

SENATOR GARRETT: At this time we'll take any proponent testimony. Any opponent testimony?

SENATOR BRASCH: I'm proponent.

SENATOR GARRETT: Oh, proponent, okay. I neglected to say, if you'd please say and spell your name.

SENATOR BRASCH: Lydia Brasch, L-y-d-i-a B-r-a-s-c-h. And do we say for the record we represent District 16? I have heard from constituents in my district who are very engaged in our political process, both parties. People are pleased at the level of transparency we do have and the fact that we would hold ourselves to a higher standard of integrity. I am not afraid to reveal my vote. Not everyone agrees, as you know, one way or the other. Senator Schumacher, when he mentioned the resolution, here he sits, unharmed, un...reelected. His stand did not affect him politically. It was a part of a ritual part of resolutions that are issued. So I don't believe anyone will lose their seats. They are reelected or not reelected or they are term limited based on their performance and their relationship with the constituents they serve. I for one would like to hold us to the highest standard possible, Nebraska being that beam of light that we are proud of our Unicameral, we are proud of how we operate. And when we talk about the groups, well, there's other groups, not just the political groups, but every day a group comes to your door and wants you to believe this and believe that and try to motivate you or unmotivate you. As far as, you know, the comments that you made earlier, you know, so do we turn away every single group, you know, based on their ideology, on their, you know, their constituencies? E-mails, we get a lot of e-mails. You know which ones come off the computer and you know which ones come from the heart. You know, I feel our roles here are to be transparent. And I would agree down to the

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school board, down to every level that this is what I believe. And if I'm not a good fit for your district, for my district, for the people I serve, then I shouldn't...you know, put someone else in my place. And this is where I believe we are being completely forthright. And it's not a new issue that came in 2012. When I was Vice Chair of the Rules Committee and Senator Lautenbaugh was then the Chair, that was one of the first things we faced before us, long before Senator Kintner was here, on transparency. And some of the elders who have been term limited then, not that you're elderly at all, we're all young here, you know, (laughter)...I would get an arm pulled this way---don't do it, don't do it--I get an arm pulled that way, so it's not a Kintner idea, you know. It's just one piece of where we...our votes are on our record on every bill and not everybody is happy, you know. And what I have seen where I think it would be good is in the past there have been certain Chairmanships that people felt betrayed. You know, they did all their worksheets, their vote counting, this and that. And so they would walk around, you know, not head down, but eyes...I know it's you, I know you were the one, you know. There was a lot of suspicion raised. But we get over it. We get over our votes here. And this is where I don't see it being damaging, the crumbling of the Unicameral, the...and as far as the parties, I think they struggle for membership. It's our ideology. It's more of what we believe, we align with, and it's not, you know, I...you know, it's not people walking in parades and everything. So I have no fear of putting things there. I think it makes us bigger people, holds our standards higher. And I have...and as you, you know, you're lobbied by so many different groups, do any of them make you vote one way or the other? You know, you vote with what you think is right. And people vote with their feet. You know, this is just how it works. So I do want to support this legislation. If it's something that isn't working, then there's another Rules meeting and we can be right back here and it's not a change that's forever. But I think it would be a change for the better. Any questions?

SENATOR GARRETT: Thank you, Senator Brasch.

SENATOR BRASCH: Sure.

SENATOR GARRETT: Questions? Committee? Thank you, Senator Brasch.

SENATOR BRASCH: Thank you.

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SENATOR GARRETT: Any other proponent testimony? Senator Groene.

SENATOR GROENE: Thank you, Senator Garrett.

SENATOR GARRETT: Can you please say and spell your name just for the record.

SENATOR GROENE: M-i-k-e G-r-o-e-n-e. Since Senator Kintner was so kind to put my name on that rule change (laughter)...he asked me if I thought he ought to do it. And I said, you ought to follow your beliefs. And I guess that meant put my name on it but that's fine. But anyway, I...politics are local. My senator before me ran for a Chairmanship. We all know that. He told everybody he had the votes and he didn't. So it meant a lot to my constituents. That was a promise I made to them, to try to get that change, because they thought Tom was not treated right by his colleagues. But it is the only time that I've seen where we have 50, 52 senators, we've got three phantom senators or so in the body, because everybody who is running when they take their vote count has 25 votes. That means there's 50 senators somewhere. What I think this does is...the honest senator, the vast majority I don't think cares. It's that one or two in every group that is running for another Chair and goes to two different people and says, I'm voting for you, and, I'm voting for you, to try to get two votes for his Chair or her Chair. That stops that. That stops that. As far as honesty, I went up to Senator Hadley midsession and said, I didn't vote for you but you're doing a good job. It's hell being a Christian. You can't lie. And he treated me just fine. But I did tell the truth and I put it on my Web site who I voted for. But it's that one or two corrupt people, and they're in every body, who an open vote would stop. I voted for Senator Mello. I had no choice, but...(laughter) for Appropriations Chair, but I did vote for him. But anyway, that is what it does. It's that one or two instances where somebody lies, somebody is trading votes, guaranteeing two people their vote, and then secretly voting for one and hoping both those folks they've promised will vote for their Chairmanship. That's what it stops, not the honest. All laws are for the dishonest. All transparency is for the dishonest, not the honest. So thank you.

SENATOR GARRETT: Thank you, Senator Groene.

SENATOR GROENE: Any questions?

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SENATOR GARRETT: Are there any questions from the panel? Thank you. Any other proponent testimony? Any opponent testimony? Anybody in the neutral capacity? Okay. Thank you very much. We'll proceed to rule proposal two from Senator Ebke. Please say and spell your name.

SENATOR EBKE: Thank you, Mr. Chairman. I am Laura Ebke, L-a-u-r-a E-b-k-e. I'm District 32. As you will see, members of the committee, I am proposing an amendment, a 14-word amendment to Rule 3, Section 19, subsection (5), which would add the words with respect to a committee statement "along with reference to the section of the Nebraska Constitution which authorizes said action." My proposal here simply provides a reference for senators and citizens. I am not in any way suggesting that any of our committees are enacting laws outside of the constitution. What I am noting is that as I traveled throughout the state, I hit I think most of your legislative districts at some point this summer on my LR35 tour. I had numerous citizens who would ask me, what makes Congress think they can do X, what makes the Legislature think they can do Y? And I think that this provides a nice reference both for senators and for citizens to see this is why we can do this. It's authorized in the constitution. So that's the only thing that I would suggest. I think it's a fairly innocuous proposal. I think that what it does is it provides a reference for our citizens.

SENATOR GARRETT: Okay, thank you. Questions from the...anyone? Senator Schumacher.

SENATOR SCHUMACHER: Thank you, Senator Garrett. And thank you for bringing this topic to...for discussion. In our system of government, where is the repository of the legislative authority?

SENATOR EBKE: In the constitution.

SENATOR SCHUMACHER: Constitution puts it in what body,...

SENATOR EBKE: What?

SENATOR SCHUMACHER: ...the authority?

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SENATOR EBKE: In the legislative body.

SENATOR SCHUMACHER: In the legislative body.

SENATOR EBKE: Right.

SENATOR SCHUMACHER: And the Legislature has basically broad-ranging, undefined authority except for where specifically limited. We can't put somebody in jail for debt or pass a law that says that because that's in the Bill of Rights.

SENATOR EBKE: Right.

SENATOR SCHUMACHER: We can't authorize a casino because we're protected from that dirtiness. We used to not be able to authorize divorce, but that got changed. But basically the repository of all authority to legislate is in the Legislature. Or the people have got an option to do it on their own with a petition drive under the first right reserved.

SENATOR EBKE: Right, right.

SENATOR SCHUMACHER: So to say that when a bill is proposed it's got to cite a specific authority under the constitution can't be done because the constitution is...we're not a city government or a county government where our authority is delegated--the city shall have the right to do this, this, this, and usually all things necessary and proper is somewhere buried in that language.

SENATOR EBKE: Right.

SENATOR SCHUMACHER: And where the Dillon's Rule applies...and Dillon's Rule says, you know, if it isn't granted to you, you can't do it. That doesn't apply to the Legislature. I mean there are things that the Legislature is empowered to do that have no reference in the constitution.

SENATOR EBKE: Well, then maybe we ought not be doing them.

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SENATOR SCHUMACHER: But...

SENATOR EBKE: I mean I think that, you know, constitution is meant to put boundaries around what government does. It's not...I don't see the constitution as being, you know, sort of a carte blanche to do anything. We're supposed to be able to put boundaries around which...and certainly there are broad areas by which, you know, the Legislature can act. That's easily enough referenced in, what, is it Article III? Is that where the legislative power is in the constitution? I'd have to look. Is it Article III? And, you know, but certainly you can, you know, you can pick your section where that comes from. But I think it's a good thing to refer back to. You know, we are all obliged to protect and uphold the Constitution of both the United States and the state of Nebraska, if you remember the oath of office that we took. And I don't think that it is a big deal for us to simply say this is where we get our authority, you know. And maybe it's a broad range of authority, but why not let the citizens decide whether or not we are going above and beyond? You know, if we say, okay, we've got this grant of authority under Article III of the constitution and they say, but you shouldn't be doing that, then they have the option to go back and, you know, proceed down the initiative process.

SENATOR SCHUMACHER: But there's a fundamental difference between the federal constitution, which is kind of what you've described where the states delegate a list of authority to the federal government and then a loss of limitations through the elastic clause, the commerce clause, and all the other thing.

SENATOR EBKE: We forgot about the Tenth Amendment, yeah, yeah, sure.

SENATOR SCHUMACHER: But that theoretically is a delegation. The states delegated certain limiting powers to the federal government. But in the big scheme of things, the big theory of things, the state government is the repository of authority subject to whatever reservations the people made, in our case the reservation to do a petition. We couldn't...we'd have to do it in reverse. We'd have to cite we are not prevented from doing this because here's the Bill of Rights and we're not prevented in here, here's...this isn't gambling so we don't have to worry about it there. And I mean, you know, we'd have to do it in reverse. The Legislature is the repository of the power to make laws, all laws, every labor, unless limited in that constitution.

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SENATOR EBKE: Okay.

SENATOR SCHUMACHER: Well, that's been...

SENATOR GARRETT: Any other questions? I've got a question.

SENATOR EBKE: Yeah.

SENATOR GARRETT: So you signed a constitutional provision in your bill. When that comes up for debate, how do you foresee folks challenging that, the constitutional reference that you might make for your bill? For example--because when I thought about this, my first session in the Legislature scarred me for life--flashing amber lights...

SENATOR EBKE: (Laugh) Like all of us.

SENATOR GARRETT: ...flashing amber lights on citizen patrol vehicles, novelty lighters, manure sloshing out of the back of livestock trucks in south Omaha. You know, it's...so where in the constitution would you cite those provisions?

SENATOR EBKE: Well, and I think that's where the value in this comes, because then it forces us to actually think about what we're doing from a constitutional perspective. Okay, you've got the state has certain powers over transportation or we want to limit...does this in some way limit the Bill of Rights found in Article I of the constitution? I mean there's all sorts of places. I don't know that there's any defined place for any of these things, but it forces both the senators who are introducing the bills and the committees to consider, okay, how does this fit? And it provides a reference point for citizens who want to go back and say, what makes them think that they can do this? You know, I don't see this as intended to limit what we're already doing, rather than make us stop and think and let the citizens know that we are thinking about our constitutional responsibilities and our responsibility to uphold the constitution.

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SENATOR GARRETT: And again, I really liked it when I first read it. And I always "what if" things and try to think about, you know, do we get into these big constitutional debates on a bill whether or not it's...

SENATOR EBKE: Well, you know, how many of us, to be honest, how many of us actually look at the committee statements all that carefully before they come out on the floor? You know, most of us probably don't, but this would provide a written record of that the committee has deemed this to be consistent with the constitution, this particular constitutional provision.

SENATOR GARRETT: Okay, thank you. Speaker Hadley.

SENATOR HADLEY: Senator Ebke, I guess I've heard the words from the first day I was here until now, you know, our job is to pass laws and it's the court's job to determine whether or not they're constitutional or not. Are we usurping part of the court's job if we can't find a specific case that seems to fit into a constitutional...a part of the constitution? Does that mean we should not be, you know, sending thing...you know, that that next step to the court to say, yes, it is constitutional, may or may not be needed?

SENATOR EBKE: Well, certainly the courts make that determination in the end. But should we not as...I mean I believe that as legislators we're responsible for upholding the constitution and trying to abide by the constitution every bit as much. I mean the court process doesn't always work quickly.

SENATOR HADLEY: Okay.

SENATOR EBKE: And so do we want to enact an unconstitutional law, whatever it is, and have it on the books until such time as the court gets around to it?

SENATOR HADLEY: I guess at least in my experience we've always made the comment that, you know, when somebody says, I don't know whether that's constitutional or not, we say that's not what you're voting on. Are we going to get to this? If you put this in that you have the cite

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the constitution, I can oppose a bill that I might like the content but you put it to the wrong part of the...you know, I don't think it fits under the constitution where you said this fits.

SENATOR EBKE: Yeah, well, but you could put it...you could obviously record it in multiple places, you know, that we think it fits and that here, here, and here. I don't anticipate and wouldn't want a debate over, you know, whether or not we placed it in the right place.

SENATOR HADLEY: But if I don't like the bill, I might very well...

SENATOR EBKE: Well...

SENATOR HADLEY: I might very well want to make that argument.

SENATOR EBKE: Is there anything bad about us talking about the constitution? You know...

SENATOR HADLEY: I like to leave the courts...I got enough, good enough hassle from the courts without (laughter)...

SENATOR EBKE: Well, read our oath of office.

SENATOR HADLEY: Yeah.

SENATOR GARRETT: Any other questions from the committee? Senator Krist.

SENATOR KRIST: Not necessarily a question but a comment: From the time that I've been in the body I've been...it's been reinforced to me that my responsibility subject to the constitution is to legislate, appropriate, and then apply oversight. I look at that as a very broad terminology and am restricted in some areas but unrestricted in most. And I've also been cautioned time and time again that you need to establish a legislative record every time a bill is passed which would support the reasons for that piece of legislation in the event that it were challenged and that the court system does what it is charged to do, which is if something is, evaluate the law in terms of constitutionality. So I share the concern I guess of some of my colleagues. But I think that's an

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important thing. And not to make light of it, but I think there's two ways to kill something: just continue to say it's unconstitutional or kill it by fiscal note. And I've seen that over and over again as well. And I applaud you for bringing it forward. But I think the important thing that I...if it makes it out of committee and it's on the floor, my comments will be you need to establish legislative record that says that this is the intent of the Legislature, and then let the Supreme Court or the courts do what they are charged to do which is evaluate the constitutionality of anything. So thank you, Senator.

SENATOR EBKE: Thank you.

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

SENATOR EBKE: Thank you.

SENATOR GARRETT: Any proponent testimony? Senator Kintner.

SENATOR KINTNER: Well, thank you. You know, I just thought of something as she was speaking. You know, Lydia said, you know, when she was advocating my transparency bill, you know, this isn't forever, try it, see if it works. I don't think this what she...I love what she proposed. I think it's a great idea. We'll have to see what the application is, how well it actually works, if it gets sticky, too sticky, if it's too hard to pinpoint it. I think this is one of these things we can probably try this year, see how it works, get some feedback back, you know, back from everyone who...and then, you know, we revisit this next year when the Rules Committee meets. I don't think it's going to greatly change anything, but I think it's a great idea. I think we should try it. If the application doesn't work out as well as the theory, we can yank it. So I would advocate that we just try it for a year, see what happens.

SENATOR GARRETT: Questions from the committee? Thank you, Senator Kintner. Any other proponents? Any opponents? Anybody in a neutral capacity? Okay, that closes the hearing on Senator Ebke's rule proposal. Rule proposal number three is from Senator Krist.

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SENATOR KRIST: Thank you, Senator Garrett, and thank you, members of the Rules Committee, for hearing me today. Pursuant to...I would like to amend Rule 3, Section 3, "Standing Committees. The standing committees of the Legislature shall be as follows..." You have a matrix in front of you that shows the additions and the deletions in terms of the membership of said committees. My name, for the record, is Bob Krist, B-o-b K-r-i-s-t. Thank you. And I represent District 10. This does not go without a lot of thought. Ever since I've been in this body I have talked to members about this issue. I believe that, speaking of the constitution, it is very clear we have some constitutional requirements that are...on a macro level probably override everything that we do. One is to provide for a balanced budget on a biennium basis. We spend a lot of time doing that and I applaud the appropriations process for what it does. And the other is the education of the children of this state, the young people of this state. And you can argue whether it's 0 to 12 or whether we've extended it beyond those means. There is a large amount of money that is spent and a large amount of effort that is spent in those two areas. The three committees of jurisdiction that are paying particular attention to those two areas are the Appropriations Committee which has nine members, the Education Committee which currently has eight, and the Revenue Committee which currently has eight. My proposal is to make each of those committees--the Revenue and the Education--the same membership number as Appropriations which is nine. It is consistent with the representation of our state. We have three Congressional districts, three caucuses around that we move our committee membership when the Committee on Committees meets. And I believe that three members from each caucus puts better representation onto those critical committees. Those are the committees of jurisdiction of the constitutional issues that we need to be most attentive to, and it would require...this change would require that we then put three members from each one of those caucuses for equal representation statewide. And I'd be happy to take any questions.

SENATOR GARRETT: Thank you, Senator Krist. Questions? Senator Bloomfield.

SENATOR BLOOMFIELD: Thank you, Mr. Chairman. Senator Krist, you and I have discussed similar things in the past here.

SENATOR KRIST: Absolutely.

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SENATOR BLOOMFIELD: What is our largest industry in the state of Nebraska?

SENATOR KRIST: I'm sorry?

SENATOR BLOOMFIELD: What is the largest industry in the state of Nebraska?

SENATOR KRIST: Agriculture.

SENATOR BLOOMFIELD: Yet you're proposing to take a man off of the or a person off of the Ag Committee. I don't see the wisdom in that. I understand what you're trying to do with the other committees. I cannot in good conscience vote to remove a member from the Ag Committee. I don't know how you justify doing that, removing representation from the most important part of the state economy. And I wish you could explain that.

SENATOR KRIST: Sure. In referencing bills that go to committees of jurisdiction I would note that the number of bills that go to Judiciary far outweigh most of the other bills on the...in the entire committees of jurisdiction. And I would note that I would trust seven of my colleagues to do the same fine job that eight of them can do. I would also note that that's not the only matrix or formula that we could come up with if that is an issue. We can take that membership from a different committee. There are some other options. But I'm hoping that what you see is that in particular let's look at the Health and Human Services Committee which spends an incredible portion of the state's budget, incredible as almost a third, only has seven members as their membership. And I think Senator Campbell and her folks have done a fine job. So I would respond to you in this way: I mean no disrespect for our largest industry, but I also think that representation on the committee can do the same thing they can do with seven that they can do with eight.

SENATOR BLOOMFIELD: And following that line of reasoning, I believe that eight can do as well on the committees that you propose to take to nine. I don't see a reason for doing this. I don't intend to sit here and have an argument back and forth. I know at one time there was a move to combine Agriculture and Revenue. I fear that this is...I mean Agriculture and...

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SENATOR GARRETT: Natural Resources?

SENATOR BLOOMFIELD: ...Natural Resources. I fear that this is a ministep in that direction. I have opposed that from my very first day in this Legislature. I will oppose it up until my last day in this Legislature and beyond that. I fear this is a step in that direction and I cannot go there. And you as well as anybody understand that.

SENATOR KRIST: Can I respond to that?

SENATOR BLOOMFIELD: Absolutely, please do.

SENATOR KRIST: And I respect your opinion and your vote and would love to have continued conversation. We've had conversation about this issue. I would only say in response to your representation that if you feel as strongly about the representation in agriculture in the state, then it should have nine members because we have committees in terms of their makeup that have more out-state concerns on them than other parts. My intent is not to demean the Agriculture Committee as much as it is to follow through with our constitutional requirements and making sure that all three of the caucuses are represented equally. And I hope you understand my position.

SENATOR BLOOMFIELD: I understand where you're trying to get to. I question the way we're going to do it.

SENATOR KRIST: Thank you, Senator.

SENATOR GARRETT: Speaker Hadley.

SENATOR HADLEY: Thank you, Senator Garrett. Senator Krist, you and I have had discussions on this. Do you think there's a relationship between the amount of work and the number of people on the committee? Or, as the discussions you and I have had, sometimes it's the number of days the committee can meet with the work that has to be done that is just as important, if you'd want to comment on that.

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SENATOR KRIST: Yes, sir. In our conversations and in my conversations with the Clerk, I think those are two separate questions. If...truth be known, I know the Chair of the Judiciary Committee is in the audience and he can tell you he needs to be a five-day committee with the amount of information that comes in and the amount of deliberation that would be required in order to look at all of those bills in Executive Session. And that is a question but it's not a question that I have applied here. This intent is to make sure that all three Congressional districts, the whole state is represented on those key committees.

SENATOR HADLEY: Okay, thank you, Senator Krist.

SENATOR KRIST: Thank you. Thank you, Speaker.

SENATOR GARRETT: Senator Mello.

SENATOR MELLO: Thank you, Chairman Garrett, and thank you, Senator Krist. I just, maybe for a point of clarification, I'm looking at your amended rule. And if I'm not mistaken, every one-day committee currently in the Legislature has seven members with the exception of the Agriculture Committee.

SENATOR KRIST: That's correct.

SENATOR MELLO: Your proposal would essentially have all the one-day committees have the same number of members which kind of makes them in line, so to speak, with each other just as one-day committees in comparison to what we have kind of as an outlier right now. Is that kind of...

SENATOR KRIST: Yes, sir.

SENATOR MELLO: Okay. Thank you.

SENATOR KRIST: Thank you.

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SENATOR GARRETT: Thank you, Senator Mello. Senator Schumacher.

SENATOR SCHUMACHER: Thank you, Senator Garrett. Thank you, Senator Krist, for bringing this one to us. If you could kind of articulate for us why the three committees that you deemed should have larger membership, and just looking at the list here, Transportation and Telecommunications, I mean, if you articulate your reasons why these are different and why the membership needs to be expanded for those three compared to the rest.

SENATOR KRIST: Sure. As I said in the beginning, and I'll reemphasize, I feel that when you look at the overall responsibility of the Legislature there are two key areas that we are charged in terms of constitutional duties. One is a balanced budget, which has to do with Revenue and Appropriations, how you make the money and how you spend the money. And then the other is education and our responsibility to provide for a common education of all school...all children in the state for free. So given those two responsibilities and the amount of money that is charged in those two areas, these are the ones that I chose in terms of constitutional duties.

SENATOR SCHUMACHER: Senator Warner, I think it was, was quoted as saying that the functions of state government as he saw it in that era was public safety, transportation, and education. Using that standard, we would look at Judiciary, Transportation, and Education. Now you might add in the more modern era that some people think that public welfare is one of the new functions of government, so you'd add Health and Human Services. I'm just trying to think of how this changes the dynamics on any committee that would be increased or decreased in size and how it opens the door for more bartering back and forth or...and in the context of term limits lots of unknowns as to how this impacts the system that I just have those thoughts in reference to that. Mechanically--say we say, fine, we'll make these changes--when would you see it taking effect? How? It's the Committee on Committees' jurisdiction I would guess. And since we're in session, it would be the Committee on Committees doing the juggling around. Would they pick and choose from any committee or would you have to move somebody off of, say, General Affairs into Revenue or how would the mechanics work?

SENATOR KRIST: The mechanics would be Section 3, "Standing Committees," would be amended in our Rule Book to reflect these changes beginning...and if you look, read the bottom

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of that chart: The configuration of numbers of members serving on standing committees, as reflected in the chart above, becomes effective January 1, 2017. And that would be my proposal. So when we come back and Committee on Committees meets prior to the beginning of the next biennium, the membership of those committees would be reflected as proposed change.

SENATOR SCHUMACHER: Well, so maybe for technical purposes it would be the first day of the session, because outside of the session the Executive Board I think has got some shuffling authority. And this would be--January 1--would be outside of the session.

SENATOR KRIST: January 1, 2017, would be the implementation date. The Rule Book would change to reflect that so. And we can discuss the...

SENATOR SCHUMACHER: ...to have a look at it...

SENATOR KRIST: ...logistically how that would happen. But that rule would be, the Rule Book would be changed to reflect the way that the matrix is set up.

SENATOR SCHUMACHER: Thank you, Senator Krist.

SENATOR KRIST: Thank you.

SENATOR GARRETT: Thank you, Senator Bloomfield. Any other questions? Thank you, Senator Krist. Any proponent testimony? Any opponent testimony? Testimony in a neutral capacity? Okay, this closes the hearing on rule proposal number three. Number four is Senator Groene. Please say and spell your name. Welcome.

SENATOR GROENE: Thank you, Senator Garrett, Chairman Garrett. Mike, M-i-k-e, Groene, G-r-o-e-n-e. A little why I present this, I've kind of clarified the language with a handout after talking to more individuals what I would like changed. But to me, I think of the Cash Reserve, the rainy-day fund is overpayment by taxpayers. We have a budget. We tell the taxpayers we need this much money from them in taxation to pay for that budget. We overcharge them. By rights we ought to refund it to them. But I...by doing a little history, not a lot, so somebody might

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correct me but I talked to some...the Fiscal Office. Prior to 1999, the Cash Reserve Fund was basically used for what's going to happen this year. It sat there. If a budget shortfall came it was transferred to the General Fund. Like every family's budget, you have a savings account, you have a checking account. You get a little short, you take savings account, you move it over. You are still using it for the purpose you told the taxpayers: for that budget. First time we can see something else was done was in 1999 when \$65 million was removed to a special fund for a taxpayers' relief fund. Believe it or not, there was a property tax relief fund prior to the one that we created and you guys created in '06. That was the first time. Then the big time, the big time the dam broke was in 2005 when...don't know if it was Heineman or Nelson took the \$104.8 million to the low-level waste settlement in Arkansas and those other states where it was put into a separate fund off budget. That was the first time it was off budget where it was not considered in the General Fund budget. Then in 2006, property tax relief fund came where again we said we're going to transfer this into this special fund and it's going to be off budget, off the General Fund budget. And now it's become common. It's starting to be more common where somebody wants to build something, somebody wants to start something, and we say we've got this money sitting over here in this...just sitting there, let's move it over here, spend it one time, and keep it off the budget. So I'll give you a little scenario of what I seen this year that confused me as a rookie senator. But first I'll tell you the language. I kind of tweaked it after talking to the Clerk's Office and the Fiscal Office. What I'd like to see is: Any transfer from the Cash Reserve Fund to funds other than the General Fund--historically that's what we did--shall be included in a separate Cash Reserve transfer bill. Further, this bill shall be accompanied by a separate appropriations bill that incorporates and identifies any and all one-time expenditures that are not included in the General Fund budget. The expenditures that we do that isn't in the 3.5 percent that was plastered all over that we did such a great job of keeping expenditures down, these expenditures are not in there. They are one time. We are spending the people's money. I'll give you, I'll follow a scenario here. LB532, the Global Center for Advanced Interprofessional Learning at UNMC for \$25 million, that was Appropriations Committee passed it, moved it to LB6...turned it into LB662, created LB662 which transferred money from the Cash Reserve into the Nebraska Capital Construction Fund, the NCC Fund. To the layman they would say, well, that's the Capital Construction Fund, but it is not. That's on the General Budget line that says capital construction. This fund is not the same as the Capital Construction Fund in the General Fund budget which is funded by General Fund money. The NCCF, which is short for the

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Nebraska Capital Construction Fund, is off budget. What is confusing is that the Cash Reserve transfer bill, LB662, includes transfers both to the General Fund for General Fund budget items but also includes transfers to special funds that are off budget and not included in the final General Fund budget overview. I believe these two instances should be separated by separate transfer bills. Now I will give the Fiscal Office credit because if you look at the fiscal note they do separate it on there. But to the general taxpayer, as far as transparency and accountability, it's hard to follow. They're spending money but it don't show up into the budget. Next step was LB660 which was appropriation for the capital construction and property acquisition includes...this bill is the capital construction bill, includes all capital construction projects, mixing those projects paid for out of the General Fund with those projects that are one-time expenditures such as the Global Center. For transparency and accountability reasons is why I am offering this suggested rule change. It's all mixed together, those that come out of General Fund and those that come out of these special funds. Example two: the dental college construction. You might as well call it the Creighton bill. Originally \$16 million, it was settled for...the Appropriations (Committee) came up with \$8 million for it. But they had to create the fund in the first place so there was another bill in the middle of there, LB661, which created the Oral Health Training and Services Fund so that we could transfer. LB662 then transfers the money to the Oral Health Training and Services Fund, which is the same LB662 above which also transferred \$5.5 million to the Republican River Compact Fund and also had in there \$17.2 million to the General Fund which wasn't verified what it was for. So we're mixing these funds together in the same appropriation bill which then the Fiscal Office pulls back out some of these funds when they do the budget, when they actually do the General Fund budget. Then LB657 was the big \$10 million mainline budget bill. Mixed in amongst 157 pages are the transfers from the Cash Reserve Fund for one-time expenditures, including the Oral Health Fund and the NCCF fund. These off-budget expenditures are not included in the General Fund total. This is recent history when all this started. I don't think it's a good practice in the first place. If you're going to spend money, you transfer it into the General Fund and you put it in the budget is the way I see it. But it's becoming very, very common now. A huge lobbying organization, the university can go to one senator and have them offer this. It doesn't see a lot of daylight. It goes right through the Appropriations Committee and it's buried in a \$10 billion bill. I'm not saying anything is wrong with any of the senators or anybody's motives on it, but that's what happens. We're not having the three...you know what it's like when the appropriations bill hits the floor last couple

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weeks of the year. We're looking at \$10 billion. You see something in it, these odd things, and it's hard to pull them out and to debate them when you're telling everybody else I'm messing with your funding when I'm debating one part of the small bill. I believe this should be a track of these cash transfers that don't show...the one-time spending don't show up in our General Fund history of spending that are...keep their own track. That's where I'm coming from. I follow budgets a lot. This confused me this session trying to track that.

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

SENATOR MELLO: Thank you, Chairman Garrett, and thank you, Senator Groene. I guess just a couple questions so I understand in my own mind a little bit of what you're proposing. Does the process now require a bill to be introduced essentially to transfer money from the Cash Reserve during the budget process? Isn't there a Cash Reserve bill every year with the budget?

SENATOR GROENE: Yes, it is, but it mixes it with the General Fund transfers.

SENATOR MELLO: But there's a...just so I understand I'm just...

SENATOR GROENE: Yeah.

SENATOR MELLO: Let me pose some questions to you to help me walk through a logic track.

SENATOR GROENE: All right. That would be LB662.

SENATOR MELLO: So LB662, every time there is a budget proposal there is a bill introduced to transfer money from the Cash Reserve to any fund it so matters. It can...

SENATOR GROENE: Yes, any fund.

SENATOR MELLO: It's just a bill to transfer money from one fund to another. So what your proposal is, is you want to see another Cash Reserve bill introduced along with the general Cash

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Reserve bill that gets introduced every two years and actually is, general rule, practice of rule is the Appropriations Chair has to introduce an extra one just in case in regards that you need to use it for the short session outside of the long session process. But so you, your rule wants to require another Cash Reserve transfer bill to be introduced or utilized to only be used for anything not going to the General Fund.

SENATOR GROENE: Yes. Now, if you transfer \$100 million--hopefully it's about \$10 million, you cut budget by \$90 (million) or so or \$120 (million) or \$130 (million)--or whatever the final figure is, but that if you transfer to the General Fund, just like a family transfers from the savings to the checking account, that's, you know, not necessary to anything that...where you're spending it in your budget process and shows up in the budget numbers and shows up in the budget spending percentages, that's fine. If you were doing a one time where you're transferring into a fund, like you created the Oral Health Fund--it doesn't go into the General Fund budget, it's one-time spending--I would like to see a transfer bill and a separate appropriations bill for those items, combining them.

SENATOR MELLO: So to some extent, so you want to see a separate Cash Reserve bill that if it doesn't transfer to the General Fund, and then you want to see an additional bill follow no matter if there's--let's say 100--100 bills that are tied in with that transfer that's not being transferred to the General Fund. You want a separate A bill to follow each one of those along the way.

SENATOR GROENE: No, you can combine it just like you're combining it now. In the appropriations you're mixing General Fund transfers with special fund transfers. You can mix the projects at this...these all...these...hopefully it's not 100, we don't get to the point where we're blowing the taxpayers' savings on special projects, one time...

SENATOR MELLO: Like infrastructure banks?

SENATOR GROENE: What's that?

SENATOR MELLO: Talk about that later.

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SENATOR GROENE: (Laughter) We're not going there. I haven't researched that one yet. But anyway, but, no, so that we can keep track and the transparency, the people can keep track. There's people out there want income tax relief. Some people want other tax relief so that...and here you're spending their overpayment on--we are--on something else. They ought to know that we are doing that and it's not part of the normal budget process.

SENATOR MELLO: I would probably question you maybe in the sense that it's overpayment in the sense that I think best practices across the country is building a Cash Reserve and is not overpayment of taxes.

SENATOR GROENE: Yes, but to a point.

SENATOR MELLO: It's building a savings account to prepare for volatility in the future but...

SENATOR GROENE: To pay for what you told them you were going to purchase with your budget, not these extra items.

SENATOR MELLO: It's managing...

SENATOR GROENE: You didn't go to the...

SENATOR MELLO: It's managing risk.

SENATOR GROENE: You didn't go to Walmart and buy yourself a new purse.

SENATOR MELLO: As a businessman you know it's about managing risk.

SENATOR GROENE: Yeah, yeah.

SENATOR MELLO: But we can have that conversation at a later date. So just so I get it, you essentially...there would be two more bills that would be required through the budget process. My question...

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SENATOR GROENE: You have the capital construction bill already. You have the mainline budget bill. Another short, small bill that we can debate on the floor on these special items I think would be very good for transparency and accountability.

SENATOR MELLO: What separates that...I guess when everyone says it's about transparency, can you not already introduce amendments to the budget to strike out an appropriation or add an appropriation or eliminate a transfer or to add a transfer? I mean, is that not already your...

SENATOR GROENE: I guess I wasn't here two years ago. But the first thing I took part of as a senator is somebody changing the rules to try to punish somebody who tried that the year before.

SENATOR MELLO: In regards to...?

SENATOR GROENE: The mainline budget.

SENATOR MELLO: To make amendments to the budget?

SENATOR GROENE: Yeah, and slow it down and examine some of these extra items.

SENATOR MELLO: Well,...

SENATOR GROENE: And I wasn't there to witness what happened and so I'm not taking sides. But that was one of the first times. And us rookies heard about that, so we're a little bit gun shy to make a point on a \$10 billion budget that a lot of people's paychecks and good projects are tied into.

SENATOR MELLO: Well, I guess that maybe, Senator Groene, for maybe a point of clarification I think the rule change you're recommending or you're referring to that the Legislature approved earlier last year dealt with not being able to divide the question of the budget where you would not have to take a vote on every single line item of the budget in which, yes, a member had tried to propose dividing the budget line item by line item, which was borderline unprecedented, which is why the rule change was made. Aside from that I guess the

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question I just have is--every member of the Legislature now has the ability and authority under our rules to introduce unlimited amendments to eliminate an appropriation, to add an appropriation, to eliminate a transfer, or to add a transfer--what are...how is what you're doing not redundant to the ultimate power that every member of the Legislature has whether we've got 7 bills or we've got 9 bills or we've got 25 bills during the budget process?

SENATOR GROENE: This one is just...I look at as coming through any committee. It would be a bill coming through the Appropriations Committee, like every one, with three hearings, budget hearings--budgets have three hearings--where we are looking at one topic: excess spending of reserves on top of the budget. It really isn't part of the budget. It's spending one time what we consider we have excess cash on hand. It's a different matter, it's a different debate that should not tie up the operation of the HHS Department or the penal system. It's not coherent to the budget. It's separate from the budget because it is not operation of the government, it is not ongoing appropriations to operate the government, it is one-time, special spending. It's unique to the rest of the budget and I believe it should be a unique bill.

SENATOR MELLO: How is it different than transferring to the General Fund and you just spend the money from the General Fund for one-time items and/or transferring it to the General Fund and then transferring it from the General Fund to another cash fund? How is that not just the same thing and you're just adding more bills, so to speak, to the process?

SENATOR GROENE: No, when you transfer it to the General Fund it mixes with the other General Fund money in your checking account and you are doing the normal business of the state, operating HHS...

SENATOR MELLO: Transferring the General Funds to a cash fund, though, falls in there.

SENATOR GROENE: Yes, and we have a capital building fund that is in the budget. We do that. We transfer there and say we're going to put HVAC out here or whatever or we're going to build this...I went through it. There's a...Game and Parks has something in there. That is in the budget. That is mom and dad repairing the roof, mom and dad putting new carpets in. This is putting the swimming pool in the backyard. It's off budget.

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SENATOR MELLO: I guess, Senator Groene, I'm usually...

SENATOR GROENE: What...

SENATOR MELLO: I'm an open-minded individual on almost everything and I can understand to some extent if you as a member or any member of the Legislature was restricted in your ability to introduce amendments to the mainline budget, to a cash fund bill, Cash Reserve bill, to the capital construction bill. I just...I'm having a tough time understanding. You're trying to create a process where you are separating one kind of transfer from another when the reality is, if we did this, you could still transfer all of the money to cash fund...from the Cash Reserve to the General Fund and just make the transfers from the General Fund to another cash fund and it still is the same process. But you then would have multiple bills.

SENATOR GROENE: But that shows up in the budget.

SENATOR MELLO: It does not in the sense that the property tax credit, as I explained before to the Legislature, is a General Fund transfer to a cash fund does not show up. So I guess I'm just wrestling with trying to understand the logic behind the process change when it's not impairing any legislator in regards to their ability to influence change or enhance or improve the budget in their eyes.

SENATOR GROENE: I'm not worried about...you're looking at...you've been here too long. You're looking at the Legislature. I'm looking at as a citizen. I'm looking at the citizen who says, what are you doing with my money? I want transparency. I want to know where that money goes. I want the university business...University of Nebraska lobbyist to say, if I need \$25 million for a new medical center, it's going in my budget request. It's not going to be a 3 percent increase in my budget request, it's a 3.5 percent because it shows up in my budget request. I want transparency to those transactions.

SENATOR MELLO: Senator Groene, I have to respectfully probably say that then your concern and your concern more than anything else lies with maybe what agencies are requesting or what senators are introducing in regards to appropriations,...

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SENATOR GROENE: No, I'm not picking...I don't blame any senator for introducing a bill.

SENATOR MELLO: ...not so much the process itself in light of we've got fairly strict rules in regards to when budget bills need to be released publicly to the Legislature, to the public at large. We've got a 250-page book that we publish every year that gives the public as much information as they want on every appropriation outside of looking at the actual legislation. I just...I guess I...from your examples it feels like you just have concerns about specific appropriations and wanting to try to find a way that appropriations you may not like, that you want to make them jump through many more hoops in comparison to an appropriation you do like which...

SENATOR GROENE: It's not any more hoops.

SENATOR MELLO: I guess if it's creating a hoop I guess...I'll leave it there in the sense that...

SENATOR GROENE: No, yeah, it's just another bill. And I mean it's transparency. I guess my question is, what's the harm? What's the harm? You're still getting to the end factor. If the majority of the legislators vote for it, you're getting to the same end.

SENATOR MELLO: I just...

SENATOR GROENE: But you now have created more transparency. You have actually taken it, you've separated that mainline budget bill, which is General Fund spending, and you've taken the distortions out of it into another bill. I see no harm in that.

SENATOR MELLO: I just...

SENATOR GROENE: It's called transparency and accountability.

SENATOR MELLO: I'm just going to have to respectfully disagree. I think we've got...

SENATOR GROENE: I know we are but, sir, we're friends.

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SENATOR MELLO: ...plenty of transparency and accountability and one of the best processes in the country, but leave it there.

SENATOR GROENE: Well, thank you. Any other questions?

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

SENATOR KRIST: Not a question, just a comment: In your introduction I know you didn't mean this but I just want to make sure for legislative intent...

SENATOR GROENE: Oh, I said a double negative or something?

SENATOR KRIST: No. You want to give back all the taxpayers' dollars and refund everything that's in the Cash Reserve.

SENATOR GROENE: No, I didn't mean it that way.

SENATOR KRIST: Okay.

SENATOR GROENE: You need a savings account,...

SENATOR KRIST: Okay. Okay, all right.

SENATOR GROENE: ...I mean, but that savings account is if you can't make the utility bill, if you cannot pay your heating bill, if your car breaks down and you need or you have a prison crisis within a mainline budget item.

SENATOR KRIST: When...

SENATOR GROENE: That's what I see the purpose of that.

SENATOR KRIST: Okay. So I just want to really again...

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SENATOR GROENE: But if it grows too big you don't say, I got extra money, and I go out and buy a swimming pool in the backyard. You give it...you cut the tax rate and you get it back to normal. That's my point.

SENATOR KRIST: I just want to put on the record that in 2009 we needed every penny and what we ended up with as a Cash Reserve at the end of it was the money that was infused from the federal government, which is never going to happen again.

SENATOR GROENE: Yes. I know.

SENATOR KRIST: So when we speculate or when we project to the citizens of the state, they need to understand that we're doing everything we can to make sure we're saving, which we encourage them to do, for that, quote unquote, rainy day.

SENATOR GROENE: Yes, and I hope this...

SENATOR KRIST: And I think in your introduction I...

SENATOR GROENE: ...stock market don't keep crashing and we wish we had the \$25 million we gave for this and the \$5.5 million we did for that and the \$8 million we went over here with. I hope we don't need it. I'm mean I'm not disagreeing with you, Senator Krist; I'm just saying another example.

SENATOR KRIST: Thank you.

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

SENATOR SCHUMACHER: Thank you, Senator Garrett. Following up on Senator Krist's comments that these...we have \$100-some-odd million in the Reserve right now. If you look at it, \$600 million of that came from that federal stimulus program.

SENATOR GROENE: I understand.

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SENATOR SCHUMACHER: And about another \$120 million of that came from an unexpected acceleration of revenue due to people selling their stock and arranging the...their estates to try to avoid what they feared to be was a...President Obama taking their money, which never happened. So in the last...in those years, from the time of the Great Recession started until now, that excess money was both due to two flukes. We haven't taken any excess money from the people. And so we, as far...our savings rate is not so high.

SENATOR GROENE: But right now it is excess money that we didn't need for the budget. It's a savings account.

SENATOR SCHUMACHER: Right, it's an emergency account.

SENATOR GROENE: Yeah, we already...we have a Cash Reserve plus the rainy-day fund, but we're looking good and that's important and that's what I want that money to be thought of, just what you two described.

SENATOR GARRETT: Thank you, Senator Schumacher. Any other questions? Okay, thank you, Senator Groene. Any proponent testimony? Any opponent testimony? Testimony in a neutral capacity? Okay, this will clear the hearing for Senator Groene's rule proposal number four. Rule proposal number five is Speaker Hadley. Say and spell your name, please.

SENATOR HADLEY: Good afternoon, Senator Garrett, Chairman Garrett. My name is Galen Hadley. That's G-a-l-e-n H-a-d-l-e-y. I represent the 37th District. And I'm here today to talk to you about a rule change that deals with honorary resolutions. Prior to 2010, the Legislature by rule limited senators to introducing eight resolutions per senator. This limit did not apply to resolutions treated as bills, constitutional amendments, nor did it apply to interim study resolutions. The rules change adopted in 2010 put an eight-resolution restriction on only resolutions that are referenced to a committee for a hearing but require only one vote. Restriction excluded constitutional amendments, interim study resolutions, and honorary resolutions. My proposed rule change will return us to the eight-resolution limit that existed prior to the 2010 Session. The limit applies to resolutions the senator introduces as the principal introducer. The total number of resolutions have dramatically increased since the rule was changed in 2010.

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Additionally, a few senators are introducing a significantly large number of resolutions. And I've given you a handout. You'll notice we go from 2008 where we had 72 honorary resolutions to 2015 we have 284 honorary resolutions. So we have had a significant increase. In 2010 we went up quite significantly after we changed the rules. While these resolutions...and I've given you some graphs also that just show you basically the increase in resolutions and also the most resolutions by a senator. In 2015 one senator put in 23 honorary resolutions to go through. Now, while these resolutions generally do not take up floor time except when...towards the end of the session due to the adoption-without-debate rule--Rule 4, Section 5(b)--what needs to be considered is the cost of bill drafting, and printing cost for the numerous copies required to be printed. Secondly, I think it is also to an extent does our constituents a disservice because if they happen to become an Eagle Scout when we're in session they might get a resolution; if they become an Eagle Scout in August we have no ability to give them a legislative resolution. So I believe eight is a sufficient number of resolutions to allow each senator to introduce.

Additionally, I would suggest a certificate of recognition is a better way to provide congratulations to the numerous Boy Scouts, Eagle Scouts, birthdays, wedding anniversaries celebrated by our 1.8 million citizens. And I've given you three examples. And the first one is one that we have available right now--it's in the buff color--that goes out: Nebraska Unicameral Legislature hereby extends its congratulation and directs that this citation be presented to so and so, and it's signed by you, the legislator, it's signed by the Speaker, and it's signed by the Clerk. The second one is a certificate of recognition that I use out of my office. And I sent these to my constituents but I've had senators in that say, will you send one to, you know, Harry Jones who just celebrated his 100th birthday, as Speaker? No problem. We run her off, card stock run her off. The third one is one that individual senators can run off and send out and you can send it to that Eagle Scout in August who gets the recognition. So the purpose behind mine is not to completely keep from having them, you know, because I think there are ones that when we're in session we really want to do. I signed one today that I think will have many, many signatures to one of our fallen veteran heroes. But I think when we start getting the numbers up, I think they might lose a little of the stature in doing it. And these others are really I think quite handy. Lastly, I was surprised today, you know, got up bright and early and went to read the wonderful e-mails I usually get telling me that they can't understand how anybody so stupid could have been elected to this office (laughter), but actually it was a very, very, very nice three-paragraph e-mail from a principal in Gibbon, Nebraska, I believe at the middle school, who profusely

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thanked me for just sending him one of these certificates. I walked into somebody's business not too long ago in Kearney and they had framed the certificate and had it, you know, on the wall. So I'm not saying we should do away with legislative resolutions, but I think it's just time we hold the number down for actual legislative resolutions and get...make more of this process available so we can make sure that everybody, we all take our local newspapers and we can get...you know, you can set this up, you know, on your computer where you can get them out and sign them and get them going. Thank you. I'd be happy to answer any questions.

SENATOR GARRETT: Thank you, Speaker Hadley. Senator Bloomfield.

SENATOR BLOOMFIELD: Thank you, Chairman. Mr. Speaker, do you know why back in the day we discontinued the number eight and opened it up?

SENATOR HADLEY: Pardon me?

SENATOR BLOOMFIELD: Do you know why we went from doing the 12 we did originally?

SENATOR HADLEY: Yes, I can give you my thoughts on it. I believe it was...and I'm going to give him a shout out because he's mad at me because he does not get to give a State of the Audit talk to the Legislature. Charlie Janssen texted me yesterday and he says if the judiciary can do it and the Governor can do it, he'd like to come in. But I told him no. But I believe it was Senator Janssen, and I want to say it might have been our first year here, said, well, why do we have only eight? Why can't we, you know, give everybody who wanted one? And I think everybody kind of thought it was a good idea that, you know, it might go up to 10 or 12, not 286 that seems to be going now. So, Senator Bloomfield, that was...Senator Mello and I were here when that went up.

SENATOR BLOOMFIELD: Okay. I agree with you that perhaps 23 is a bit excessive from one senator, but I'm not sure that the number you have proposed is adequate.

SENATOR HADLEY: Okay.

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SENATOR BLOOMFIELD: I don't know that I have ever done over six, but I know there are senators that do more than that. I would like to see your number increased a little bit.

SENATOR HADLEY: Well, you know, we could...

SENATOR BLOOMFIELD: Can we discuss that as we go along?

SENATOR HADLEY: Eight is, you know, eight we came up with because that was the number before. And again, Senator Bloomfield, I guess I want to make...I guess, my number one goal is also to make it really something special.

SENATOR BLOOMFIELD: Amount to something.

SENATOR HADLEY: Yeah, that if you get one of these, you know, to this...the fallen hero that has 49 senators sign it, or whoever it is, that this is really something special to them.

SENATOR BLOOMFIELD: Yeah.

SENATOR HADLEY: So it's a number.

SENATOR BLOOMFIELD: You were kind enough to sign one for me yesterday for one of our heroes that passed last summer.

SENATOR HADLEY: Sure.

SENATOR BLOOMFIELD: So the idea that you can't do one, only when we're in session, you can wait and start one the following session and that's...

SENATOR HADLEY: Yeah.

SENATOR BLOOMFIELD: I would like to see that number increased to 12 or 15 and put the limit there so we have a little...

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SENATOR HADLEY: Well, we can certainly...we can certainly talk about that. But I think also not...you know, and I don't want to get into a situation where I'm saying one honor is more than another, but I think there's some that are more significant than others. And that's when, you know, these kinds of certificates might be appropriate.

SENATOR BLOOMFIELD: It could be my blind eye that I've been five years and this is the first time I've ever seen one of these.

SENATOR HADLEY: Yeah.

SENATOR BLOOMFIELD: I wonder where they are available.

SENATOR HADLEY: Yeah, they are available and...

SENATOR BLOOMFIELD: That needs to be advertised a little bit perhaps.

SENATOR HADLEY: And the Clerk and I have, you know, a really nice blue pen that...and they're signed by hand.

_____ : (Laugh)

SENATOR BLOOMFIELD: Well, I'd want his signature anyway.

SENATOR HADLEY: (Laugh)

SENATOR GARRETT: Thank you. Senator Schumacher.

SENATOR SCHUMACHER: Thank you, Senator Garrett. I just wanted to agree with you that I've been using these for the last few years. They really work nice and they're highly efficient, and in some respects framable like that, if somebody is so inclined, may be around longer than a resolution typed up in a...with a blue backing on it or something.

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SENATOR HADLEY: Well, and actually, the resolution is not signed by you as the senator, is it?

SENATOR SCHUMACHER: Yeah. Right.

SENATOR HADLEY: So if you want to...

SENATOR BLOOMFIELD: Mine are.

SENATOR HADLEY: Huh?

SENATOR BLOOMFIELD: Mine are.

SENATOR HADLEY: Well, I know. You probably say turn it over and you got your name scribbled on the back.

SENATOR BLOOMFIELD: Two or three times on the back, yes.

SENATOR HADLEY: Okay. Anyway, (laughter) any other questions?

SENATOR GARRETT: No. Thank you, Speaker Hadley. I appreciate it. Any proponent testimony? Opponent testimony? Oh, here we go.

PATRICK O'DONNELL: Mr. Chairman, I won't take long. First of all, I want to thank the Speaker for...I didn't want him to take the pokes up here because I was the one that at least raised with him the...I wanted you to be aware that there is...the trend is...has increased pretty dramatically, okay? And while it's any member's prerogative to do what he or she thinks is appropriate to do, you know, there is an expense associated with these things. He talked about the drafting expense. I will tell you probably one of the more expensive pieces of processing these things is production in the Journal. I mean that's an expensive publication that the Legislature produces, and we have to produce a Journal because that's the record of what you do here. And so, Mr. Speaker, thank you for raising the issue. It's your decision as to what you want to do. Senator Bloomfield, just in response to your concern about the number, Senator, I just

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wanted you to know this. In 2015, 40 of the 49 members did eight or less, okay? In 2014, 46 of the 49 did eight or less. In 2013, 43 of the 49 did eight or less. And in 2012, 48 of the 49 did eight or less. So I'm trying not to be critical when I say this but it's a few members who tend to be where the trend increase is coming from.

SENATOR BLOOMFIELD: Overachievers.

PATRICK O'DONNELL: Yeah. Okay? I think that's all. The other thing, the Speaker is...there was pressure, when the rule was repealed, from certain members because they felt limited to eight. That's why we got rid of the rule when we did, okay? I had great chagrin at the time when I talked with Speaker Flood about it, but we did it or you did it and that was fine. So now anyway, I just wanted you to know there is a trend and it's increasing and it's not an inexpensive one.

SENATOR GARRETT: Senator Bloomfield.

SENATOR BLOOMFIELD: Thank you. Would you diametrically oppose going to 12? That's one a month from each senator.

PATRICK O'DONNELL: No, it's...you know, I don't have a vote on this deal. (Laugh)

SENATOR BLOOMFIELD: Yeah, I know you don't but you are heavily involved in it.

PATRICK O'DONNELL: Well, Senator, no, I mean some...I think some limitation is better than no limitation, so absolutely not. If you think that's the right number and this is how the Legislature should express themselves, then so be it.

SENATOR BLOOMFIELD: Okay. Thank you.

SENATOR GARRETT: Thank you, Mr. Clerk. Any other questions? Any other proponent testimony? Opponent or testimony in a neutral capacity? Okay, thank you. That closes the

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hearing on rule proposal number five. Rule proposal number six, Senator Coash. Please state and spell your name.

SENATOR COASH: Thank you, Senator Garrett. Senator Colby Coash, C-o-l-b-y C-o-a-s-h. I represent the 27th District. I am bringing a very simple rule change for the committee's consideration and it is very simple. It's changing the time for the vote to be held open, on a...when we waive the at-large reading of the bill, from three minutes to one minute. When I...when you spend enough time in the Chair, as I have, you watch what's going on. I think we would all agree that that three minutes we're waiting for the presiding officer to call the roll is not being spent reading the bills, as it was designed. There are I believe, and I leave it to this committee to clarify that before making a final decision, there may be a constitutional provision here that needs to be considered. But I believe that the...from my research, there was an intent that if we weren't going to read a big Revisor bill, that is 120 pages, as we read every other bill, that we ought to at least have a time period where the senator would have a set amount of time before he or she votes to consider whether or not they want to vote for it. But as you have seen, I am sure, the minute that the board is open most senators vote, and that three minutes becomes wasted time. We are...maybe it's my final year and I want to preserve as many minutes as I can for substantive debate, but it seems to me that that is a waste of time. But I do believe there is a purpose for having that particular opening, and if it can be shrunk by two-thirds I think our time would be better served in that way. And I leave that to your discretion to decide.

SENATOR GARRETT: Thank you.

SENATOR COASH: That's all I got for you.

SENATOR GARRETT: Thank you, Senator Coash. Any questions? Senator Bloomfield.

SENATOR BLOOMFIELD: Thank you. Senator Coash, you mentioned there may be some constitutional issues.

SENATOR COASH: Well,...

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SENATOR BLOOMFIELD: What did you find in your research that indicates that?

SENATOR COASH: And I should...I'll defer to anybody else who wants to pop in here, but reading the bills aloud was put in our constitution for a reason, I believe it's the constitution, because time we had one not every citizen could read. And so the idea was you read them out loud so that the citizens would know what kind of bills are being passed that would affect their lives. That provision has been rejected over the past decades on changing that. The citizens still want us to read the bills out loud. But we are able, through rule, to at least say, look, if it's big Revisor bill and it meets some criteria that the Speaker will identify as to what constitutes a waiving of the at-large reading and opening for three minutes, we ought to have that. So that's why I believe you need to have something there and I didn't...couldn't just go we'll waive it altogether. We still need to have that reading. But you've heard the Clerks with their speed. Even the ones that are read, I would hazard to say that's a waste of time given the way that we do it. This is just an attempt to save a little bit of time.

SENATOR BLOOMFIELD: It has been one of my great pleasures to watch up in the balcony, when the Clerk starts speed reading, at the expression on the 4th graders that are there of what in the world is he doing.

SENATOR COASH: Yeah. To the eye that is not aware of our procedures, it looks pretty silly. I will give you that.

SENATOR GARRETT: Senator Schumacher.

SENATOR SCHUMACHER: Thank you, Senator Garrett. Do we know statistically, I mean, how many bills that we go through this three minutes, how much length of time are we really talking about total?

SENATOR COASH: No, I don't. This is, very anecdotally, I was just sitting here for seven years on Final Reading days and sitting in the Chair and just watching a clock go from three minutes to zero so that you can ask the Clerk to call the roll. You know, if I thought I had 48 colleagues who were reading the bill for the last time I wouldn't bring this rule change, but I don't believe

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that we're doing it. So seems to me we could save a little bit of time. But I'd...long answer to a short question, I don't know how many we waive.

SENATOR GARRETT: Thank you, Senator Schumacher. Any other questions? Thank you, Senator Coash. Any proponent testimony? Opponent testimony or testimony in the neutral capacity? Okay, this will clear the hearing for...conclude the hearing for rule proposal number six. Rule proposal number seven, Senator Bloomfield. Please state and spell your name.

SENATOR BLOOMFIELD: Senator Dave Bloomfield, District 17, D-a-v-e B-l-o-o-m-f-i-e-l-d. And what I am proposing is that we do the Pledge of Allegiance to the American flag every day as part of our agenda. Through the research we've done so far, there are four states that don't include the Pledge of Allegiance. There may be more. We have found four that do not. Thus far, we've found 37 that do. Any of you who were available yesterday for the ceremony in the Rotunda, if that family can do what they have done for our nation, I believe it behooves us to be able to say the Pledge. The Pledge had never been said here until 2011-2012, when I, with the assistance of Senator Krist, went to the Exec Board to see at that time if there was something that could be done, and we decided as a compromise at that time to go to one day a week before the opening of the session. I think it's time we took another step and put it into the agenda where it belongs. And my recommendation would be that we do it every day of the week. Most of you are aware of my fondness for the military and for our nation, and I believe this is a way of honoring our nation a little bit on the floor and I just think it's the right thing to do. And that's what I'm proposing to do.

SENATOR GARRETT: Thank you for bringing this rule change. Any questions from...? Senator Mello.

SENATOR MELLO: Thank you, Chairman Garrett. Thank you, Senator Bloomfield. Just as a clarification, the process we have now, the one time a week, beginning of each week, is that in the rules right now or is that just an unwritten practice?

SENATOR BLOOMFIELD: That is an unwritten practice...

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SENATOR MELLO: Okay.

SENATOR BLOOMFIELD: ...that Patrick, the then Chair of the Exec Board, Senator Krist, and I came to. I just think it's time that we make it part of the practice instead of be...

SENATOR MELLO: Would you ever consider along the lines of us starting to maybe make that unwritten rule and unwritten practice maybe a rule first, if anything, if you were willing to compromise? And we can discuss this as an Exec Session. But just in the sense of would that ever be a compromise to you to just put that component, at least to start off, in the rules?

SENATOR BLOOMFIELD: I don't believe so because the compromise that was made included me finding the people to say the Pledge and taking care of that. I will not be here. I don't believe that we want to put that on any other senator.

SENATOR MELLO: Okay.

SENATOR BLOOMFIELD: I think it needs to be part of the agenda and...

SENATOR MELLO: What if we put it on the Speaker?

SENATOR HADLEY: That's what I feared would happen. (Laughter)

SENATOR BLOOMFIELD: Well, the current Speaker wouldn't be here either. But I...

SENATOR MELLO: Okay. Just that...

SENATOR BLOOMFIELD: Under my...

SENATOR MELLO: If we made it just...

SENATOR BLOOMFIELD: ...under my proposed change, it would go to the Clerk.

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SENATOR MELLO: Okay. We can talk more. We'll talk more in Exec.

SENATOR BLOOMFIELD: Yeah. And...

SENATOR MELLO: Just wanted to kind of understand a little bit of the history.

SENATOR BLOOMFIELD: ...that would not be a compromise that I would be willing to make easily.

SENATOR MELLO: Okay.

SENATOR GARRETT: Thank you, Senator Mello. Senator Schumacher.

SENATOR SCHUMACHER: Thank you, Senator Garrett. You referenced, when you brought this suggestion up a few years ago for what we're doing now, there was a compromise. Compromise implies somebody wanting to do more, somebody wanting to do less.

SENATOR BLOOMFIELD: I wanted to do it every day of the week at that time. I wanted just what I'm asking for now. There was a certain individual that other people thought might be running for reelection and they were afraid of what he might say were he reelected. And they did not want to have that fight at that time. It may be time to have that discussion.

SENATOR SCHUMACHER: You haven't had enough fun yet in the session? (Laugh)

SENATOR BLOOMFIELD: No.

SENATOR SCHUMACHER: Okay.

SENATOR BLOOMFIELD: It's a new session.

SENATOR SCHUMACHER: Thank you.

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SENATOR GARRETT: Some of us love fights. Just a technical question: Currently Section 22 has an opening prayer. You're not talking about striking opening prayer. You're just...

SENATOR BLOOMFIELD: No.

SENATOR GARRETT: Okay. Do you want to add it to Section 22 so we do an opening prayer and the Pledge?

SENATOR BLOOMFIELD: Probably the prayer, then the Pledge, and then renumber everything out, whatever order that is. I think the prayer would come first.

SENATOR GARRETT: Okay. Okay. Thank you. If no further questions, thank you, Senator Bloomfield. Any proponent testimony? Any opponent testimony or testimony in a neutral capacity? Okay, this will clear...this will conclude the hearing for rule proposal number seven. Rule proposal number eight, Senator Mello. Please state and spell your name.

SENATOR MELLO: Good afternoon, Chairman Garrett, members of the Rules Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District in south Omaha. The proposed rule change would amend Rule 5, Section 4(e) to read as follows. I don't want to read the exact language because it's in front of you, but the gist of it, essentially, would be requiring senators and/or their staff who prepare their statements of intent for their legislative bills to introduce their statement of intent no later than 24 hours after the legislative bill has gone through the referencing process. Like all good deeds that do not go unpunished, my office has received a considerable amount of feedback from legislative staffers and others within the building who raise some general concerns in regards to sometimes the timing in regards to process of when you introduce a piece of legislation. It does get referenced, as well as during these first usually ten days senators and senators' staff are very busy in that process of trying to prepare multiple pieces of legislation. And to have to also produce the statement of intent while you're finishing up the legislative bill is an awful lot to ask sometimes, depending upon the workload of an individual senator and their office. So I would recommend or offer, I should say is a better word, the committee a potential compromise that's been brought forward by a number of people to consider the rule change instead of changing the rule to no later than 24 hours

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following the bill's public hearing announcement. Which means that the statement of intent right now, just for historical purposes, statement of intent is supposed to be provided no less than 24 hours before the actual public hearing. I will admit I am one of those violators, as have, hopefully, all of you experienced it as well, of sometimes not having that statement of intent within 24 hours. You're doing it late at night. The bill hearing is maybe at 1:00, 1:00 in the afternoon or 1:30. And for the graciousness of many other committee Chairs, they will essentially accept your statement of intent even that morning of the hearing. The reality is that just makes it more difficult for the legislative committee through the hearing process. It makes it more difficult for the Legislative Fiscal Office as they're evaluating the bill to find out actually what your legislative bill is intended to do. So the compromise that essentially many have offered and suggested I bring today is, instead, it would give senators and committees, essentially, a week or a little less than a week to have that statement of intent prior to the bill's actual public hearing. It still gives senators plenty of time after those ten days of bill introduction, so to speak, or at least after, I should say, the first week of bill introductions, to be able to prepare that statement of intent, be able to get that statement of intent to the legislative committee within 24 hours after the bill has been made...or after a public hearing has been set for the legislative bill. Is this a proposal that will make or break the operations of the Legislature? No, it doesn't. But if anything, I think it does help the committee process a little bit in regards to getting that statement of intent sooner in the process. It does help the Legislative Fiscal Office in regards to understanding the intent of what the senator had when they crafted the bill, instead of essentially getting the statement of intent the day before the bill when also the fiscal note essentially is also being finalized or being prepared. The hope would be that getting this information out sooner to the public. But, more importantly, getting it out sooner to the legislators and to the Fiscal Office and committee staff will hopefully help provide more clarification of what the legislator's intent actually is when they introduce the legislative bill. With that being said, Mr. Chairman, I'd be happy to answer any questions you or the committee may have.

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

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SENATOR BLOOMFIELD: Senator Mello, I am going to join you directly, and getting abuse probably from my staff. I think maybe 2017 and going forward it might not be a bad idea to have the statement of intent included when the bill is dropped. I think that does away with all that issue. And the only problem would be when a committee tries to do a shell bill. But that's something I would like you to look at next year. I won't be here. I guess you won't be here either, will you?

SENATOR MELLO: (Laugh) You are correct, Senator Bloomfield. I think that the original thought and intent with this was in the sense that as we introduce legislative bills, we know what the intent of our legislative bills are. And we know that our staff, who have been working on the bills with us, know what our intent of the legislative bill is also. I think the difference in the challenge is that's an awful lot of sometimes workload of a bill--statement of intent, getting everything situated all in kind of a condensed time frame. Where Senator Schumacher may introduce a bill on day one, the bill gets referenced on day two, it now becomes publicly known on day two, early day three. Right now, obviously, the bill could be not referenced for a public hearing till the end of session. And so it's the sense of...does it kind of streamline operations? It does. But in talking with legislative staff...and I have a tremendous amount of respect for the Clerk's Office, the Research Office, the Fiscal Office, individual senators' staff. I didn't make...I didn't introduce this to cause more headache for the operations of the Legislature. And that's why I'm not...this is not a proposal that I will die on the hill, quote unquote, for. I think the thought, though, is just anything that we could do to get that statement of intent out to the Legislative Fiscal Office. I mean that's, in my mind, the Legislative Fiscal Office and the committee counsel, the committee clerk who are doing the committee preparations, getting it to them earlier than the day before or even the day of, it could only help, I think, provide more information to senators, as well as the public at large. Instead of them having to read through the entire bill to find out what's in the bill, they can, instead, see the statement of intent sooner to have maybe approach senators with questions, approach committee staff with questions. So the time frame, I just bring that as an alternative option to help mitigate revolt amongst maybe legislative staff.

SENATOR BLOOMFIELD: Thank you.

SENATOR GARRETT: Any other questions? Senator Schumacher.

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SENATOR SCHUMACHER: Thank you, Senator Garrett. I'm too much of a procrastinator. (Laughter) So I think, Senator Bloomfield, this is a great idea, but 2017 is the wrong year to start it.

SENATOR MELLO: Nineteen?

SENATOR SCHUMACHER: Two thousand nineteen sounds a lot better. (Laughter) That's all.

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

SENATOR MELLO: Thank you.

SENATOR GARRETT: Any proponent testimony? Any opponent testimony or testimony in a neutral capacity? Okay, that closes the hearing for rule proposal number eight. Rule proposal number nine is the Clerk of the Legislature, Mr. Patrick O'Donnell.

PATRICK O'DONNELL: Yeah, Mr. Chairman, let me apologize to the committee because I know I'm not in the business of submitting rules changes to you for your consideration. But this is...this, what I'm offering you, is a reflection of something that we're trying to do in terms of process. Our IT shop this year has given the Legislature the ability to add names to bills--you know, the "cosponsorship" business that we've done for so long with the multiple forms--by doing that electronically. And if you want to be able to do that, we need to change the rule to modify it as I have proposed to you, okay? It's our...it one of our ways of trying to, you know, save a little money and move towards a paperless Legislature. I don't ever believe there will be a paperless Legislature, but we can certainly make efforts to expedite and make things more efficient. So this is for your consideration.

SENATOR GARRETT: Just by way of comment, I don't know how anyone in your office reads those signatures anyway, so electronically might be...(laugh).

PATRICK O'DONNELL: Well, I didn't say I didn't have a selfish motive, Senator.

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SENATOR GARRETT: Senator Krist.

SENATOR KRIST: Are we piloting it now and we need to do this in order to put it into force or...?

PATRICK O'DONNELL: No, we're actually...we are still creating paper. We're creating less paper by doing this. Probably not this year but next year it allows us to get rid of all that paper in terms of the name add stuff, cosponsorships.

SENATOR KRIST: So, officially, we're still using a piece of paper today.

PATRICK O'DONNELL: Yeah. Yeah.

SENATOR KRIST: Okay. All right. Thank you.

SENATOR GARRETT: Thank you. Any proponent testimony? Opponent or neutral capacity? Okay, this closes the hearing on rule proposal number nine. Rule proposal number ten, Senator Scheer.

COLIN FURY: We're waiting for Senator Scheer.

SENATOR GARRETT: Okay. We'll stand at ease for a short while. And our intent is we'll go into Executive Session after we're complete with Senator Scheer.

EASE

SENATOR GARRETT: Welcome, Senator Scheer. We got a quorum here so...Senator Mello had some things to take care of.

SENATOR SCHEER: I know I'm between you and a Budweiser so...not you, but...

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SENATOR GARRETT: You know, we're going to go into Executive Session. But welcome, Senator Scheer. Please say and state...or state and spell your name.

SENATOR SCHEER: Oh, no problem. I'm Jim Scheer, District 19, J-i-m S-c-h-e-e-r. My request or our suggestion would be amending Rule 5, Section 5(b) which has to do with priority bills. And it's just a logical approach, something that I've been thinking about, especially looking over the three years I've been here. For example, Judiciary is a three-day period...a three-day hearing session and they have 70-80-90 bills. And you have Urban Affairs and they maybe have 18 or 20 bills. But yet, when we're done with hearings, they both get two priority bills. And it seems to me that if we're going to be practical and logical, if somebody has a three-day committee, they have...they are three days because they have the amount of bills introduced into that area that causes them to have three days versus one day. And so it would seem logical to me to have those priority designated bills available essentially for every day that they would be meeting on a regular basis. So if it's Urban Affairs, it's one day. If it's Banking and Insurance, it's a two-day. If it's Revenue, it's a three-day, or Judiciary. It would leave Appropriations alone. They're a five-day but they don't have a lot of other outside bills, so you leave them at two. I don't believe the number changes at all. You still end up with the exact same number of priority bills but they're distributed really to the areas that have the volume of bills rather than just unilaterally saying everybody gets two. To me it seems a more practical, logical way of separating the priority bills that are available. And that's pretty much the philosophy behind the change.

SENATOR GARRETT: Thank you, Senator Scheer. A real quick question: Is there a statutory limit on the number of priority bills that committees can get? Rather than take a priority bill away from one committee to increase it to another, could we not add an additional priority bill to those three-day committees?

SENATOR SCHEER: I would imagine, you know, you could do exactly the opposite. The reason I was looking at it this way is I guess you could say I was taking away, but I also am looking at the total number. And so if we add you have...I don't know if it's four, four, five, six three-day committees, whatever it might be. If you're going to just simply add an additional one for those committees, we've now added five or six more priority bills. And I'm not a long-timer but it seems to me that we have, and especially looking at this year, we've got five carry-over priority

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bills that we're starting with just this next week. So I wasn't trying to add priority bills simply because then that adds more time in debate to those bills, that may be very worthy, but I was trying to keep them in the parameters that we were already working with, without trying to add additional workload to the body. But you're absolutely correct. You could just as easily, rather than redefine this, leave everything alone and simply add additional priority to those that are a three-day committee. I really don't have any skin in the game. To the extent I'm not doing this because I've got a three-day committee and I want more priority bills, that's not it at all. I was just simply looking over my minimal experience where the volume of bills have fallen. And having been a Chairperson for one year, looking at the bills that probably all deserve the light of day and having to narrow it down, two to myself, when I look at someone that probably has looked at twice as many bills and trying to narrow it down still to the same number--pretty daunting task. And so that...it's nothing that would affect me personally or my committee, and even if you wanted to take away, I suppose, from the two-day, I mean I'm...this is not self-serving. It's just looking at the bulk number of bills that are out there per committees and trying not to add to the amount that people have to look at and work with at the end of a session. It's just simply trying to distribute what we currently have in a more equitable position.

SENATOR GARRETT: Okay. Senator Bloomfield.

SENATOR BLOOMFIELD: Thank you. Senator Scheer, how would you handle Tribal Relations, where we don't meet on a regular basis?

SENATOR SCHEER: Those would not be affected. So anything that is currently receiving, those special committees, for example, Performance Audit I believe gets two, that would remain the same. Tribal Relations I believe has one. That stays the same. So any committees that do not meet on a regular basis, has no effect on whatsoever.

SENATOR BLOOMFIELD: I am going to have issues with your proposed change, much as I did Senator Krist's proposed change, in that it takes away from the Agriculture Committee. And agriculture being our largest and most important industry in the state, I don't believe we should be taking away from there. But that's...that will be discussed.

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SENATOR SCHEER: Yeah.

SENATOR BLOOMFIELD: Thank you.

SENATOR SCHEER: Fair enough.

SENATOR GARRETT: And see, that too was my concern from what your concerns expressed earlier about taking away a vote from Ag. You know, I'd, rather than do that...

SENATOR SCHEER: Well, you know, I think we can isolate. We can look exclusively at Ag. And I'm not trying to diminish it. I'm from an ag area. I mean I am a rural senator so I'm not trying to diminish that.

SENATOR GARRETT: Right.

SENATOR SCHEER: But I also look at, for example, a one-day committee this year that had like 14 or 15 total bills, literally met two times for hearings, and ended up with 2 priority bills. You know, I just...I fail to see the equity in that as well. Now unfortunately, Ag being a one-day, evidently--and again I'm not going to nag--but if it's a one-day committee, it evidently only produces a smaller amount of bills to look at. And if that's the case, you know, the same could be, you know, Urban Affairs, General Affairs. All of them could say the same thing, you know: We've got a lot of stuff we're looking at. Well, they do. But my point is if you're Judiciary or Revenue or any of the other three-days, proportionately they are looking at a lot more. And for Judiciary to have to whittle down 90 bills to end up with 2 priorities is substantially different than a committee that is looking at 14 bills, whittling it down to 2. And this is not...no disrespect, I get where you're coming from, from ag, and it is a big industry. But we just don't have the volume of bills there. And I guess we could talk to Senator Johnson, but I'm not sure that it would impact them. I'm not sure how difficult it was for him or how easy it was to define which ones would be his priority.

SENATOR GARRETT: Senator Krist.

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SENATOR KRIST: This question is addressed to the Clerk, because of the continuity issue. But was there...is there a reason why there are...you have 25? Twenty-five, is that supposed to be the equalizer in terms of additional or...

PATRICK O'DONNELL: In terms of the Speaker priority bills?

SENATOR KRIST: Yes.

PATRICK O'DONNELL: No.

SENATOR KRIST: Thanks, Jim. Thank you.

PATRICK O'DONNELL: No. (Laughter) Please don't go. I'll be...I won't be here long.

SENATOR SCHEER: No, no, no, (inaudible) I'm fine. If you're done with...excuse me, I don't mean to interrupt. Okay. If you're done with me, I mean I don't really have a closing. If I'm supposed to, I'll waive it. But if anybody else...

SENATOR GARRETT: Are there any other questions for...? Senator Krist.

SENATOR KRIST: Just...

SENATOR SCHEER: No, I mean it was just a thought, trying to (inaudible).

SENATOR GARRETT: Yep.

SENATOR SCHEER: So there you go.

SENATOR BLOOMFIELD: You sure have. (Inaudible)

SENATOR GARRETT: Thank you, Senator Scheer.

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SENATOR SCHEER: Thank you very much. Sorry to delay you.

SENATOR GARRETT: Thank you.

PATRICK O'DONNELL: No. It was, at the time, priority bill system was a brand new concept, never had experimented. We'd always utilized worksheet order before. It was felt that the Speaker, as the elected leader of the body, should have some prerogatives, i.e., that's why they settled on 25. But there was nothing magic to that number.

SENATOR KRIST: Okay.

SENATOR GARRETT: Any other questions?

SENATOR KRIST: Thank you.

SENATOR GARRETT: Thank you, Mr. Clerk.

PATRICK O'DONNELL: Yes, sir.

SENATOR GARRETT: Any other proponent testimony? Opponent testimony or testimony in a neutral capacity? Okay, this will clear the...finalize the meeting for rule proposal number ten, and that concludes the public portion of the hearing.