

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Executive Board March 6, 2024  
Rough Draft

**AGUILAR:** Good afternoon. Welcome to the meeting of the Executive Board. My name is Senator Ray Aguilar. I represent the 35th Legislative District. I serve as Chair of the Executive Board. We'll start off having the members introduce-- of the committee and committee staff do self-introductions, starting on my far right with Senator Ballard.

**BALLARD:** Beau Ballard, District 21.

**BOSTAR:** Eliot Bostar, District 29.

**SLAMA:** Julie Slama, District 1.

**LOWE:** John Lowe, District 37.

**TREVOR FITZGERALD:** Trevor Fitzgerald, committee legal counsel.

**ARCH:** Jon Arch District 14.

**RIEPE:** Merv Riepe, District 12.

**VARGAS:** Tony Vargas, District 7.

**AGUILAR:** Also assisting the committee is our clerk, Sally Schultz, and our committee pages, Julie Skavdahl of Harrison who is a history major at UNL; Molly Penas from Fort Calhoun is a political science major at UNL. With that, we will move to the first item on the agenda.

**TREVOR FITZGERALD:** The first time on the agenda is the appointing the remaining members of the Legislative Oversight Review Special Committee, made-- that was authorized under LR298. As a reminder to members, the committee will consist of all members of the Executive Board, as well as the Chair of the Health and Human Services Committee and the Chair of the Judiciary Committee. And then the committee is designated to appoint three at-large members. How we do special committee selections, because we haven't done one in a while, is we will vote by ballot. Looks like you've got paper in front of you. And if you want to just write 3 names down, the clerk and I will tally those. So if members want to say anything before we vote.

**AGUILAR:** Senator Arch. Speaker Arch, I'm sorry.

**ARCH:** Thank you. I want to-- I want to highlight 3 of these in particular I think should be given serious consideration. One is,

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Senator Conrad. I think it's, it goes without saying. And if you read her letter, I think her qualifications are pretty strong. And she obviously has strong interest in this issue, has spoken on this issue multiple times. She and I have had multiple discussions as well on this issue. I think she, she certainly would be a strong candidate. I would say, the other name would be Senator DeBoer that I would highlight. I think that, again, she, she spent quite a bit of the summer-- and again, this is because of conversations with me on the issue, just in, in, in conversations on the phone, in person. She is-- she has also spent a lot of time giving a lot of thought to some of the constitutional issues as well as our statutory issues. I, I think that her analysis and being on Judiciary would also be a benefit. And the third one that I would-- that I would highlight would be Senator Holdcroft. I've been impressed with his personal initiative going around to all the corrections facilities. I think he has one that he hasn't gone to. But again, Judiciary Committee, I think that his ref-- his representation of that. We obviously will have judiciary issues with, with juvenile probation. And so anyway, I just-- I just wanted to, to highlight those and thought that those were-- those are 3 strong candidates.

**TREVOR FITZGERALD:** Senator Riepe.

**AGUILAR:** I'm sorry, Senator Riepe.

**RIEPE:** Thank you, sir. The question I had is, is if Senator McDonnell is term limited, is this committee going to-- is this impacted by that or is this-- is it more of a task force as opposed to a committee?

**ARCH:** The committee produces the report at the end of the year.

**TREVOR FITZGERALD:** Yeah, I believe the committee terminates--

**ARCH:** Prior to the next session.

**RIEPE:** So how many meetings do you think we'll have?

**ARCH:** You know, that's a good question. I, I, I think given the size of the committee, there's probably going to be quite a bit of work that's done outside and, and that type of thing. But I would say maybe we'll have 4 or 5. That's what I would anticipate.

**RIEPE:** OK.

**SLAMA:** Of all 15 or do you anticipate--

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**ARCH:** Where all, where all are invited.

**SLAMA:** OK.

**ARCH:** Yes.

**AGUILAR:** Senator Vargas.

**VARGAS:** Does-- remind me, does the LR have a sunset in terms of when the committee will disperse? Because I know we have a report but.

**TREVOR FITZGERALD:** Right. The committee terminates per the resolution on December 31 of this year.

**VARGAS:** OK.

**TREVOR FITZGERALD:** And the report is due December 15. So quick work.

**AGUILAR:** Senator Slama.

**SLAMA:** And just out of my curiosity, I've never actually served on one of these special committees before. So when it comes to the report that we're required to produce, I'm just thinking in terms of who we're going with and for the at-large appointments, a majority of the members on that special committee are required to approve the content of the report that gets kicked out at the end of the year?

**TREVOR FITZGERALD:** Yeah.

**SLAMA:** OK.

**ARCH:** Yeah. It's a-- it's a-- it-- the committee-- the committee report obviously has a lot of content to it.

**SLAMA:** Yeah.

**ARCH:** And then there's a-- then there's a section on recommendations and that-- but the report itself takes the vote of the-- of the, the committee members.

**SLAMA:** Got it.

**TREVOR FITZGERALD:** And that's-- and that's just not select committees. I mean for other, like for example, Performance Audit, when they issue a report, the committee has to approve it.

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**SLAMA:** Yeah. I just wanted to make sure that I wasn't-- it's the first time I've been on a special committee, and I wanted to make sure that I wasn't missing something special-- additional about the special committee.

**ARCH:** And then once, once the committee is formed, then, then the committee gets together and elects a chair and vice chair.

**SLAMA:** OK.

**ARCH:** And then-- and then you're off and running.

**AGUILAR:** Senator Vargas.

**VARGAS:** I was just going to echo for Senator Holdcroft in particular, his emphasis on trying to get an audit of the different facilities is, I mean, that takes a lot of time and is necessary for part of the like are we actually following through on the programming and infrastructure of what is needed. So that's one reason why I think he's important and I support. You know, Senator Cavanaugh has been working on this issue for years as well and I think is an important voice in whether or not we're moving forward and actually there's meat to it. I think that there's crossover with also what we, we hear from Senator Conrad in terms of the historical-- being, being in the Legislature for years prior to this and seeing the evolution of accountability is also important. So I just wanted to highlight them as individuals.

**AGUILAR:** Senator Slama.

**SLAMA:** Thank you, Mr. Chairman. I, I always like agreeing on a bipartisan manner when the opportunity very rarely presents itself. But I do have to agree with Senator Vargas on Senator Holdcroft has shown an impressive amount of initiative as somebody who's neither required nor-- he's been going out on these facilities and providing oversight on his own time and on his own prerogative, and I think that's very commendable. And I do think he will have my support as well. And I agree on Senator Cavanaugh as well. She's actually the only one who's individually approached me to express her interest in it. And as much as I disagree with Senator Cavanaugh from a policy perspective, I think she has shown really dogged initiative and commitment to the separation of powers, both this year, last year, any-- under any administration she's worked with. She's really advocated for transparency and separation of powers. And given that

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and the experience she's had on the other special committee and what I've seen from her, she has my support as well, which is tough to publicly admit, but you know.

**AGUILAR:** Anyone else? Senator Ballard.

**BALLARD:** Thank you, Chair. I do agree with Senator Holdcroft. I like members that are in their first term so they can see this through. And that's, he's in his first term. Not-- you're great, Senator Vargas.

**BOSTAR:** Get out of here, Tony.

**BALLARD:** [INAUDIBLE] more than likely allow 6 years to see this through full-- make sure the oversight is done correctly. And I do appreciate Senator Slama's Senator Cavanaugh mot-- or endorsement, if we could say that. She's, I mean, she's the only one that served on an oversight task force besides Senator Arch that was on this page with the LR29 Committee, correct? And so she has experience.

**ARCH:** She was part of the HHS Committee at that time. Not on the LR29, but part of the HHS.

**BALLARD:** And then it would be Senator Hansen as well. So you, you 3 would have experience in this, this committee task force process.

**ARCH:** Senator Wayne, Senator Wayne as well.

**BALLARD:** Senator Wayne has it.

**ARCH:** He was on he was on that.

**SLAMA:** We don't have to vote for--

**ARCH:** Senator Clements. What's that?

**TREVOR FITZGERALD:** Senator Wayne and Senator Hansen, as chairpersons, are automatically members of the committee, yeah.

**SLAMA:** OK.

**ARCH:** Yeah, yeah. No, no, he was just asking if others have had that experience. Yeah.

**TREVOR FITZGERALD:** OK.

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**BALLARD:** That's my-- that's kind of my tidbits on this and how I've been thinking about it through the last week. I appreciate it.

**VARGAS:** Tidbits.

**BALLARD:** Tidbits.

**AGUILAR:** Senator Lowe.

**LOWE:** Thank you. And since this only goes through the end of the year, I've been-- Senator Arch and I spoke earlier about some, some of these and I'm kind of wavering. But I like Senator McDonnell, just because of his common sense that he brings and, and, you know, being on the Appropriations Committee may know more, like you're a has-been. Your name is not on here.

**VARGAS:** What's going on?

\_\_\_\_\_ : [INAUDIBLE]

**SLAMA:** No one else would vote for you.

**LOWE:** I kind of like Senator McDonnell--

**VARGAS:** I know, I know.

**SLAMA:** We voted for ourselves.

**TREVOR FITZGERALD:** If members don't have anything else, if you want to go ahead and write the 3 names on the-- your slip. And I'll collect them and [INAUDIBLE] will tally the votes. So on the first vote, Senators-- sorry, on the first vote, Senators Cavanaugh and Holdcroft have received a majority of vote and are both elected to the committee. There was a tie for the third position, and neither of those candidates had a majority of the committee. I think traditionally what we've done is vote on that tiebreaker. So there's a tie between Senator Conrad and Senator McDonnell for the third position. So if you'll cast another ballot.

**BOSTAR:** We just vote for those-- those are the 2 options?

**TREVOR FITZGERALD:** Yes.

**BOSTAR:** Do we have to fill all 3 seats?

**SLAMA:** I mean, could we keep it open for Jacobson?

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**VARGAS:** I don't-- yeah.

**SLAMA:** Could we hunt him down?

**TREVOR FITZGERALD:** Sally is going to call his office.

**LOWE:** Phone a friend?

**SLAMA:** It's a cage match.

**RIEPE:** Do you want to share what the tie was between?

**TREVOR FITZGERALD:** [INAUDIBLE]

**RIEPE:** OK.

**SLAMA:** So I mean, I'll just share where I'm at. Because, I mean, if we're just sitting around hanging out, trying to figure out where the other Mike is. So for me, it came down to-- and I appreciate Senator Conrad and everything that she's done towards this issue. I do think it's important to have a balance on the committee. And I do think, and this is where I think Senator Lowe's endorsement came in for me-- of how important it is to have a good balance on the committee. And I think Senator McDonnell provides that balance. And also again, nothing against Senator Conrad, but Senator McDonnell has been a very strong advocate of separation of powers. I think more of his bills have been vetoed than anybody else actively in the Legislature right now, except maybe short of, I mean, possibly. What's your [INAUDIBLE]?

**VARGAS:** No, he's got number one, I think.

**SLAMA:** Yeah. I was gonna say like, he has to be number one.

**VARGAS:** [INAUDIBLE] close second.

**SLAMA:** But in terms of his experiences, I do think he brings a unique set of qualifications to the table as well that isn't necess-- and views that aren't necessarily represented on the committee as it stands with its current makeup. That's just where I was at as we're trying to find Mike.

**AGUILAR:** Senator Vargas.

**VARGAS:** You know, love Senator McDonnell. I was advocating for Senator Conrad. Mine was a little bit-- it's a different interpretation of the committee. You know, outside of Senator Aguilar has been here during,

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you know, the longest tenure and served on Government, Military Affairs Chair and having served on this committee, Senator Conrad has had varied experiences. And I was concerned that we didn't have enough people that have seen iterations of accountability, the separation of powers across these last 8 years, support the-- the new people, the newbies. You know, I'm pointing at you, Senator Ballard, but--

**SLAMA:** Let the record reflect.

**VARGAS:** I thought it was important. Yes. But my reason for not supporting Senator McDonnell is I think we need people on the committee that will also-- that have longevity, but then also will be able to make sure the follow-through with the legislation exists there. And given that Senator McDonnell is term-limited out, I just want more people that will hold that accountable for longer years than 2 or 4 years. I know you're going to be there, Senator Ballard.

**SLAMA:** And now the has-been-- now the has-beens are coming into play.

**VARGAS:** Ageism.

**SLAMA:** Oh, man.

**VARGAS:** Never thought I'd see it.

**TREVOR FITZGERALD:** Senator Aguilar, I might suggest if we are waiting for Senator Jacobson perhaps we could have discussion on Easter administrative leave while we wait, which is the next item on the agenda.

**VARGAS:** Exciting.

**TREVOR FITZGERALD:** So for committee members may recall, traditionally, every year since I believe 1977, the Executive Board will vote to grant administrative leave for legislative employees the Friday recess day before Easter and the Monday recess day after Easter. Those dates are Friday, March 29, and Monday, April 1.

**LOWE:** So moved.

**SLAMA:** Second.

**TREVOR FITZGERALD:** OK. I see a motion from Senator Lowe, a second from Senator Slama to grant administrative leave on March 29 and April 1.



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**AGUILAR:** Vargas.

**VARGAS:** We've done this since 1977. Why isn't this just put into our policies so we don't have to keep voting on it?

**TREVOR FITZGERALD:** I believe it's because the dates flow around. And also, there have been some times historically where one of those dates happens to fall on the same day as Arbor Day, which is a state holiday. There have been rare instances in which the Legislature has not given administrative leave, but it's exceedingly rare. The most recent which was 2010 when, instead of administrative leave for one of the days, due to budget cuts, we gave staff a furlough day on one of those days. It was actually they were off, but they were not paid.

**BOSTAR:** How generous.

**SLAMA:** [INAUDIBLE]

**TREVOR FITZGERALD:** [INAUDIBLE]

**SALLY SCHULTZ:** I'm gonna start with Speaker Arch.

**TREVOR FITZGERALD:** It's the motion for administrative leave.

**ARCH:** Yes.

**SALLY SCHULTZ:** Senator Ballard.

**BALLARD:** Yes.

**SALLY SCHULTZ:** Senator Bostar.

**BOSTAR:** Yes.

**SALLY SCHULTZ:** Senator Jacobson absent. Senator Lowe.

**LOWE:** Yes.

**SALLY SCHULTZ:** Senator Riepe.

**RIEPE:** Yes.

**SALLY SCHULTZ:** Senator Slama.

**SLAMA:** Yes.

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**SALLY SCHULTZ:** Senator Vargas.

**VARGAS:** Yes.

**SALLY SCHULTZ:** Senator Aguilar.

**AGUILAR:** Yes.

**SALLY SCHULTZ:** Motion is carried 8-0-0-1.

**VARGAS:** Can we move on to other items?

**AGUILAR:** Senator Bostar.

**BOSTAR:** Thank you, Chair. So just hypothetically if we're-- oh, did you--

\_\_\_\_\_ : I'm fine.

**BOSTAR:** If we don't reach him now, can we fill these two seats and then fill the third at another meeting? Or do we plan to sit here indefinitely?

**AGUILAR:** Senator Vargas.

**VARGAS:** For the sake of time--

**TREVOR FITZGERALD:** I think, theoretically, we could [INAUDIBLE] and then you know, go back into session [INAUDIBLE].

**VARGAS:** It was for the sake of time I was going to motion for the two, since there was more unanimity, and then leave one of them open and then exit Executive Board for this and then motion to go to Executive Session but--

**AGUILAR:** [INAUDIBLE]

**TREVOR FITZGERALD:** I think it would be appropriate for [INAUDIBLE]

**LOWE:** Second.

**SLAMA:** Third.

**AGUILAR:** I have a motion and a second.

**BOSTAR:** Do we vote on those?

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**SLAMA:** So we filled the 2 spots.

**TREVOR FITZGERALD:** Sally, Sally, typically, when we-- when we did the committee appointments last year, we did after the balloting have a formal motion to elect those members. So I think it would be within our practice to do that again. I take it, Senator Vargas, that was your motion, was to elect those two that--

**VARGAS:** Yes, that was my motion. Yes.

**SLAMA:** Oh, OK.

**LOWE:** That's what I understood.

**VARGAS:** All right.

**SALLY SCHULTZ:** I've got a motion by Vargas and a second by Lowe. And this is on the adoption of--

**TREVOR FITZGERALD:** To elect Senators Cavanaugh and Holdcroft.

**SALLY SCHULTZ:** Cavaugh and Holdcroft. And this time I'm going to start with Senator Ballard.

**BALLARD:** Yes.

**SALLY SCHULTZ:** Senator Bostar.

**BOSTAR:** Yes.

**SALLY SCHULTZ:** Senator Jacobson is absent. Senator Lowe.

**LOWE:** Yes.

**SALLY SCHULTZ:** Riepe.

**RIEPE:** Yes.

**ARCH:** Oh, Mike's coming.

**SALLY SCHULTZ:** Senator Slama.

**SLAMA:** Yes.

**SALLY SCHULTZ:** Senator Vargas. Senator Aguilar.

**AGUILAR:** Yes.

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**SALLY SCHULTZ:** Speaker Arch.

**ARCH:** Yes.

**SALLY SCHULTZ:** Motion is carried 8-0-0-1.

**TREVOR FITZGERALD:** Senator Jacobson, to get you caught up, we--

**SLAMA:** We made a motion for your removal.

**TREVOR FITZGERALD:** [INAUDIBLE] we held a vote on the members of the [INAUDIBLE] committee. Vote for 3 candidates. Two candidates received a majority of the vote, Senator Cavanaugh and Senator Holdcroft. There was a tie for the third position. The committee voted again on the-- that third position between Senator McDonnell and Senator Conrad. And there was a tie on that second vote. So we are now taking a third ballot between Senator Conrad and Senator McDonnell.

**BOSTAR:** Do we just everyone take a third ballot?

**TREVOR FITZGERALD:** Yeah. The proper procedure is for everyone.

**SLAMA:** Oh, OK.

**ARCH:** Probably should.

**BOSTAR:** Not just wait for Mike to vote.

**VARGAS:** Because technically everybody is eligible, everybody is eligible, right, right now on this list except Senator Machaela Cavanaugh--

**TREVOR FITZGERALD:** It's a vote between the tiebreaker.

**SLAMA:** It's still the tiebreaker.

**TREVOR FITZGERALD:** That's how we handled elections last year when there was a tie for [INAUDIBLE].

**VARGAS:** Yeah, OK.

**SLAMA:** OK.

**SLAMA:** We did approve Easter leave in your absence, so.

**VARGAS:** For everybody except--

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**SLAMA:** Yeah. It's a furlough day for you.

**TREVOR FITZGERALD:** Senator McDonnell has been elected to--

**BOSTAR:** So we need a motion on-- I, I move to appoint Senator McDonnell per the election to the Legislative Oversight Review Special Committee.

**LOWE:** Second.

**SALLY SCHULTZ:** I have a motion by Senator Bostar, a second by Senator Lowe to formally adopt Senator McDonnell to serve on the committee. Starting with Senator Bostar.

**BOSTAR:** Yes.

**SALLY SCHULTZ:** Senator Jacobson.

**JACOBSON:** Yes.

**SALLY SCHULTZ:** Senator Lowe.

**LOWE:** Yes.

**SALLY SCHULTZ:** Senator Riepe.

**RIEPE:** Yes.

**SALLY SCHULTZ:** Senator Slama.

**SLAMA:** Yes.

**SALLY SCHULTZ:** Senator Vargas.

**VARGAS:** Yes.

**SALLY SCHULTZ:** Senator Aguilar.

**AGUILAR:** Yes.

**SALLY SCHULTZ:** Speaker Arch.

**ARCH:** Yes.

**SALLY SCHULTZ:** Senator Ballard.

**BALLARD:** Yes.

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**SALLY SCHULTZ:** Motion is carried.

**JACOBSON:** Just to introduce myself, I'm Senator Jacobson, District 42.

**SLAMA:** Are you?

**TREVOR FITZGERALD:** [INAUDIBLE] executive session.

**AGUILAR:** OK. Motion to adjourn that meeting.

**BOSTAR:** So moved.

**LOWE:** Second.