

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Executive Board February 12, 2020

**HILGERS:** Good afternoon, everyone. Welcome to the public hearing of the Executive Board of the Legislative Council. My name is Mike Hilgers. I'm the Chair of this committee. I represent District 21 in northwest Lincoln and Lancaster County. We will start with member introductions, starting with Senator Stinner.

**STINNER:** John Stinner, District 48, all of Scotts Bluff County.

**McCOLLISTER:** John McCollister, District 20, central Omaha

**VARGAS:** Tony Vargas, District 7, downtown and south Omaha.

**KOLTERMAN:** Mark Kolterman, District 24, York, Seward, and Polk Counties.

**HUGHES:** Dan Hughes, District 44, 10 counties in southwest Nebraska.

**SCHEER:** Jim Scheer, District 19, Madison and Stanton County.

**HILGERS:** All right. As legal counsel of this committee, Janice-- Janice Satra. To my far left is the committee clerk, Paige Edwards. Our page today is John. What we have, we--- our agenda today has been posted. We have two items on our agenda, LB1157 and LB11-- LB1207. We will take them in that order. By a show of hands, how many people are intending to testify today? OK, thank you very much. So we are-- we have a shorter time than most public hearings. Most public hearings start at 1:30 and can go as long as they need to in that day. We are limited because there is a committee hearing after this. So what we're gonna do-- here's what we're gonna do. We're gonna have-- the process will be, we'll have an opening from the bill proponent. We'll take proponents, supporters of the bill, opponents of the bill, and then those testifying in a neutral capacity. Then we'll read off the letters. Because of the-- because we want to make sure everyone is heard, we will be under a light system today and it'll be three minutes. So if you want to testify, please come up, fill out your green sheet, give it to the page. You'll get three minutes. When it goes yellow, you'll have one minute left. If you get to red-- I am just warning everyone here on the front end now-- I will politely as I can stop you, even mid-sentence I'll cut-- we need to stay at the three-minute mark to make sure that everyone can be heard. After that members, if they have any questions, they'll ask any questions that we might have. We won't have a light system on that. But with any luck, we'll get everyone out of here today and we won't have the committee

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Executive Board February 12, 2020

come in behind us. So with that, please silence your cell phones. And I forgot to mention, Senator Vargas is the Vice Chair of this committee and he will have our first-- our first bill, LB1157.

**VARGAS:** Taking me a little longer to get here. OK.

**HILGERS:** Welcome, Senator Vargas.

**VARGAS:** Thank you very much.

**HILGERS:** Please proceed.

**VARGAS:** Chair Hilgers and members of the Executive Board, I am going to quickly pass out a one-pager. Thank you very much. My name is Tony Vargas, T-o-n-y V-a-r-g-a-s, and I have the pleasure of representing the communities of downtown and south Omaha. Put simply, LB1157 changes how the Nebraska prison population is counted under the U.S. Census for purposes of redistricting. Currently, prisoners are counted based on the physical location of the prison where they are confined. Under LB1157, prisoners would be counted as residents of their previous residence. Now this ensures that districts where prisons are located are not artificially inflated to include people who are not permanent residents there. The practice of counting prisoners as residents of a correctional facility rather than in their home communities is often referred to as prison gerrymandering. Prison gerrymandering leads to a distortion of political representation and creates an inaccurate picture of community populations, which is harmful to this [INAUDIBLE] process and planning processes for communities. Prison gerrymandering also defies our state statutes, which explicitly state that a residence is, quote unquote, a place where a person, whenever he or she is absent, he or she has the intention of returning to. Now, one question I'm sure you have is how we will logistically be able to determine when inmates formerly resided and use that information for redistricting. Following the 2020 Census, the Census Bureau plans to offer a product that states can request in order to assist them in their goals of reallocating their own prison population counts. Any state that requests this product will be required to submit a data file indicating where each prisoner was incarcerated on Census Day, as well as their preincarceration address in a specified format. Now the Census Bureau will then review the submitted file, and then provide a product that contains supplemental information the state can use to construct alternative within state tabulations for its own redistricting process. We know

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Executive Board February 12, 2020

that redistricting can be and has been in the past a highly debated and discussed process. One thing that we can and should do before sitting down to draw the new district lines is to make sure we have the most accurate census data to work off of. Now, every Nebraskan, I believe, deserves the same level of representation, and counting Nebraska prisoners as residents of their home communities is one step we can make towards ensuring that happens. I urge you to join the seven other states who have already passed similar legislation to protect voter rights and representation and support LB1157. There will be a few other people testifying a little bit on this bill as well. I thank you for your time and I'm open to any questions you may have.

**HILGERS:** Thank you for your opening, Senator Vargas. Are there questions? Mr. Speaker.

**SCHEER:** Thank you, Mr. Chairman. Senator Vargas, in-- we are automatically assuming that they would be returning back to the location where they were previously living. In some cases that may or may not be the case. Or-- how-- how do we make that-- why or how are we making that assumption?

**VARGAS:** So residence is actually defined in our state statutes. And so given the way that residence is defined in our state statutes, it makes-- it makes the most sense, given our statutory language, to then count them where they resided beforehand rather than counting them where they resided right now. That was one of the reasons I introduced the bill. There is a question on whether or not they would return to the previous residence. I'm sure we can look at some data and to then poll how many individuals return back to the residence that they came from before. But given what we have in our statutory definitions of residence and making sure we have an accurate census count of where people reside under our statute, it made the most sense to then use that definition.

**SCHEER:** The reason I ask is--

**VARGAS:** Uh-huh.

**SCHEER:** --we had a situation that had to do with residency in relationship to legislative items.

**VARGAS:** Uh-huh.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Executive Board February 12, 2020

**SCHEER:** --and what it basically came down to was, at that point in time, your residence is wherever you say it is. And so--

**VARGAS:** Uh-huh.

**SCHEER:** --if we're going to be accurate on this, would we not be determining-- literally would poll each member and say, where is it that you will-- you do consider home? And that may or may not be where you may have been residing before. I-- I-- I'm just--

**VARGAS:** No, it's a good--

**SCHEER:** I'm not trying to nitpick, but I mean, I don't know--

**VARGAS:** No--

**SCHEER:** --that where they came from necessarily means where they truly believe that their home might be. I'm-- I'm assuming that there may be instances where somebody may be incarcerated from a long area away. Their family may move to whatever location that might be. And so they've now-- their family is established either near or close in proximity. And so would it make more sense to-- that, OK, my family's now in wherever, versus where you may have been, where you [INAUDIBLE] that you committed the-- the thing that got you in the prison system, so that's-- that's all I'm thinking about. I mean, we're-- we're sort of trying to take one position and uni-- unilaterally say, no, that's got to be the other, I mean, they're literally there. I get that may not be a permanent deal but some people were there, regardless of where there is. And it's pro-- it's not permanent. But to put them back in in those locations where there may be a difference, how do we account for that?

**VARGAS:** Yeah. And I don't view it as nitpicking. I think you're asking a-- a fair question. And we can look to see how maybe other states might have addressed that concern. But the way that we're-- we're drafting it is more in line with the definition we have of residence. But I'm more than willing to look at a way to make sure that it's-- it's-- it's as accurate as possible to your point.

**SCHEER:** OK. Thanks.

**VARGAS:** Yeah.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Executive Board February 12, 2020

**HILGERS:** Thank you, Speaker Scheer. Senator Hughes.

**HUGHES:** Yes, thank you, Mr. Chairman. Thank you, Senator Vargas. Just point of clarification. How do we handle county jails? I mean, this just says, for Nebraska prisons. How about, you know, YRTC? It's-- that's not a prison but yet it's confine-- it's confinement. Just-- just a question.

**VARGAS:** Uh-huh. Yeah, we just did this in the Nebraska prisons, but I think that's a-- a good question, something that we can look towards clarifying, given that. But-- but in terms of even, like, the YRTCs, they're-- they're not there nearly as long. But we've specifically focused on Nebraska residents in the prison system because they are likely there for a much longer period of time. And this process is only really happening every 10 years but-- we can look into that.

**HUGHES:** Just a question.

**VARGAS:** Uh-huh.

**HUGHES:** OK. Thank you.

**HILGERS:** Thank you, Senator Hughes. Senator Kolterman.

**KOLTERMAN:** Thank you, Senator Hilgers. Senator Vargas, do you know what-- I mean, at the present time, what's our population in our prisons that we're talking about here?

**VARGAS:** Uh-huh. I'll get the exact numbers. The hard part here is there's people in our prison population that may-- may have a permanent residence beforehand in our system. So we'll get the exact numbers. And actually there's people behind me that may-- may be able to reference the exact numbers. I know for a fact, at least one person.

**KOLTERMAN:** Thank you.

**HILGERS:** Thank you, Senator Kolterman. One question I had, Senator Vargas, was I believe the bill's limited to legislative districts and congressional districts. Is there-- is there a policy rationale for just those versus all of them, or-- or could you just speak to that?

**VARGAS:** It is what is the most in line with what we're doing. But I know we're looking at different-- we're actually drawing different

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Executive Board February 12, 2020

lines so we can then amend that and make the change to then ensure that it's in line with what we do with all redistricting.

**HILGERS:** OK. Thank you. Any other questions? Thank you for your opening, Senator Vargas.

**VARGAS:** Thank you.

**HILGERS:** We'll now move to proponents, those wishing to testify in support of LB1157. Welcome, Mr. Miller.

**WESTIN MILLER:** Thank you, Chairman Hilgers. Members of the committee, my name is Westin Miller, W-e-s-t-i-n M-i-l-l-e-r. I'm the director of public policy with Civic Nebraska. Civic Nebraska is a nonpartisan, nonprofit organization. We are committed to creating a more modern and robust democracy for all Nebraskans. Public trust in elections is probably the core value of every of Civic Nebraska's policy positions. And so I kind of wanted to come up here and just quickly state the obvious, which is that counting an otherwise eligible voter or a Nebraskan as a resident of the prison in which they're incarcerated, rather than the community or the neighborhood from which they identify, is a pretty surefire way to erode people's public trust in the electoral process. I've had a lot of conversations with our volunteers and staff and just my neighbors about this and other issues. And the conversations about this bill in particular go exactly the same, which is I say, yeah, Senator Vargas has a bill to end prison gerrymandering, it's great, we support it. And they say, cool, what's prison gerrymandering? And I say, it's when someone's counted as a resident of the prison instead of their last address. And then they get really upset and their jaw drops and they say, wait, we do what? I just think this is one of those issues that just feels kind of fundamentally wrong to a lot of Nebraskans, the idea of not being counted as a resident of where you live. It feels wrong, I think for the very obvious truth, that a prison is not a home. And I think that this current practice really just clashes with that, that very clear idea. As Senator Vargas mentioned, though, we have good news, which is that the problem is finally solvable. This problem has existed forever because it's been very complicated or impossible to solve. But the Census Bureau does now offer a tool to count inmates at their preincarceration address. There are seven states, Mississippi, Colorado, Virginia, Maryland, Michigan, New Jersey, and New York that have already committed to using this tool. I think that we could easily become the eighth state to do that. Counting inmates as

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Executive Board February 12, 2020

residents of their preincarceration address is doable. It provides the state and the Legislature with more accurate data. And I really just do believe it's-- it's the right thing to do. So I want to thank Senator Vargas and his team again for bringing this great idea. I would encourage you all to take advantage of this opportunity to improve public trust in the election process. And Speaker Scheer, quickly to your question, which was-- one of the first questions I had in this conversation is, how do we know they're going to return to their home address? And I think the rationale for me is that there's absolutely a chance they'll go home somewhere else when they leave. But there is a 100 percent chance they will not continue to live at the prison once they've left the prison. And so I think those are kind of our two options. But with that, thank you for your time and I'd be happy to answer any questions.

**HILGERS:** Thank you for your testimony, Mr. Miller. Are there questions? I-- I have a brief question, which is--

**WESTIN MILLER:** Uh-huh.

**HILGERS:** --so prison gerry-- gerrymandering is a-- a-- gerrymandering usually is used-- is used in a pejorative sense. It's a negative--

**WESTIN MILLER:** Sure.

**HILGERS:** --term, and usually in the sense of trying to preserve some sort of political power, whether it's partisan power or--

**WESTIN MILLER:** Yeah.

**HILGERS:** --some other-- are you seeing states that are using this form of prison gerrymandering, to use that term, in a way to preserve political power?

**WESTIN MILLER:** Yeah. And I think that the real-- the real stress becomes more about geography than I think political party. Now Nebraska-- the problem is not nearly as extreme in Nebraska as it is, or it was, in a state like Mississippi, for example. The reason that Mississippi is one of the seven states who's agreed to use the census tool is that the majority of their prisons are in very rural parts of the state. The majority of the inmates are from very urban parts of the state. And that really inflates and deflates in inaccurate ways the population counts of certain districts. There are-- there are a number of districts throughout the country where-- legislative

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Executive Board February 12, 2020

districts, specifically, where the majority of the residents that that senator or House rep represents are incarcerated in a prison and don't actually live in the district. So it's-- it's just-- it's inaccurate and it makes nobody feel better about the process.

**HILGERS:** [INAUDIBLE] Will the census data take into account people who might be in that prison for life or serving life terms?

**WESTIN MILLER:** That's a great question. I don't know how they factor in for life sentences. Yeah, I don't know. It's a good question.

**HILGERS:** Thank you. Other questions? Seeing none, thank you for your testimony.

**WESTIN MILLER:** Thank you.

**HILGERS:** Next proponent for LB1157. Welcome.

**JASMINE L. HARRIS:** Thank you. Good afternoon, Senator Hilgers and Executive Board Committee members. My name is Jasmine L. Harris, J-a-s-m-i-n-e L H-a-r-r-i-s. I am the director of public policy and advocacy for RISE. We are a nonprofit that works with people who are currently and formerly incarcerated. We run a six-month program that focuses on employment readiness, character development, and entrepreneurship. We serve people incarcerated at seven of the Nebraska correctional facilities with this program and offer reentry case management services as people return home. I thank Senator Vargas for introducing LB1157. This bill was a result of a conversation that many people had which focused on the upcoming redistricting of Nebraska's legislative districts, based on the 2020 Census numbers. According to the United States 2020 Census, the results of the census are also used to determine how billions of dollars in federal funding are distributed to states and communities. While I thank everyone for talking about the political part of it, we almost-- we also must look at the funding part of this as well. This funding shapes communities, public services like schools, health clinics and even roads. Even though the conversation focuses on the drawing of district lines, there are more implications that should be considered. Everyone living in the U.S. is required by law to be counted. This includes our incarcerated population. Currently, the practices account individuals at the facility that they're currently located. Those numbers are used in those counties and those facilities when determining the census numbers and therefore including a determination for those communities



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Executive Board February 12, 2020

to receive funding for services. About 90 percent of individuals incarcerated in our correctional facilities will be released. Working with the graduates of our program on reentry planning and providing support with employment and housing, what we see is that the majority of them plan to return to their hometowns. Our reentry team also works to connect individuals with essential wraparound services when they are returning home. These essential services include access to healthcare and mental and behavioral health services. The barriers that we encounter with connecting individuals to community wraparound services is that they are limited. Many of the organizations that offer the services are not accepting new clients and don't have the funding to continue essential programs. As an organization that understands grant funding, community services, and working with populations that need more assistance that are crucial to being able to succeed when coming home, we see the direct impact that occurs when funding is not available for those most essential services. Some of those programs and services are SNAP, the WIOA, adult activities that include employment and workforce development, community mental health services. In fiscal year 2017, Nebraska was distributed almost \$7.8 billion in Census-guided federal spending, which I attached. Majority of those dollars were used for Medicare and Medicaid, and almost \$2.1 billion were used on other programs, which more than likely included services that I just mentioned. An essential resource needed for communities to be prepared to receive people home after incarceration is the proper amount of funding that is needed to provide the necessary services that individuals can access.

**HILGERS:** Director Harris.

**JASMINE L. HARRIS:** Yes, I see. So we support it and we ask that this moves on to General File.

**HILGERS:** Thank you. Thank you. But I did say I'd do it as politely as I could. Thank you very much for coming down, Director Harris, and your testimony. Are there questions? Mr. Speaker.

**SCHEER:** Is there anything else you want to finally say?

**JASMINE L. HARRIS:** Yes. The average daily population that you asked about is over 5,300. And now we are in a crisis, so I think that range is up to about 5,600.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Executive Board February 12, 2020

**HILGERS:** Thank you. Other questions? Seeing none, thank you for coming down.

**JASMINE L. HARRIS:** Thank you.

**HILGERS:** Thank you for all you do for RISE. Next proponent for 11-- LB1157. Welcome.

**ROSE GODINEZ:** Thank you. Hello, everyone. My name is Rose Godinez, and I'm testifying on behalf of the ACLU of Nebraska in favor of LB1157. We'd first like to thank Senator Vargas-- did I spell my name? R-o-s-e G-o-d-i-n-e-z [LAUGHTER]. We first would like to thank Senator Vargas for introducing this legislation, which corrects an unfair enhancement of voting power in legislative and congressional districts that have prisons in comparison to those that don't. Not only does prison gerrymandering artificially inflate resident counts, as Senator Vargas mentioned, but it also fails to honor our Fourteenth Amendment's principle of one person, one vote, and the statutory definition of residence, which I know Speaker Scheer mentioned. And that-- and that applies to people who are serving life in prison, who are in county jails. And basically, an individual's prison cell is not a place where that-- the prisoner chose. It's not a place that they intend to settle. It's not a place where they intend to return to, which is defined in our statute. Thus the prisoners in our Nebraska prisons cannot be considered residents of the-- or constituents of that district in which the prison is found, because they didn't choose-- choose the-- they didn't-- they are not in the district of their own volition. LB1157 is consistent with recent court decisions across the country, finding that prison gerrymandering violates constitutional rights of residents. Without this bill, Nebraska's system of apportionment will continue to unfairly dilute the voices of some while strengthening the voices of others. And often because of the racial disparities in our criminal justice system, it's done at the expense of people of color. With LB1157, Nebraska joins several other sister states in making our democracy stronger. And for those reasons, we urge you to advance this bill to General File.

**HILGERS:** Thank you for your testimony. Are there questions? One question I have is, you referenced it, you said that LB1157-- it would be consistent with court-- court decisions finding that prison gerrymandering violates the constitutional rights of county residents.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Executive Board February 12, 2020

Is there an argument that our current system does violate some constitutional rights of Nebraska residents?

**ROSE GODINEZ:** There could definitely be arguments. I would point the committee to Little v. LATFOR out of New York. And then there's currently a couple of cases there-- one case that's pending at the Second Circuit that would be more spot-on as to what's going on right now, and that's pending and-- right now, so the decision would be out any time in 2020.

**HILGERS:** Is that the Merrill decision--

**ROSE GODINEZ:** Yeah.

**HILGERS:** --that you reference [INAUDIBLE]

**ROSE GODINEZ:** NAACP v. Merrill. Yeah.

**HILGERS:** OK. Thank you, counsel. Other questions? Thank you for your testimony.

**ROSE GODINEZ:** Yeah. Thank you.

**HILGERS:** Next proponent for 11-- LB1157. It would help-- if you're planning to testify for this bill, it might help to come up to the front row. We've got a few here. That way we can kind of gauge time. How many more are intending to testify on this bill? One, two, three, four-- OK. OK. Thank you. Welcome.

**Y'SHALL DAVIS:** OK. So thanks for hearing me out. I'd like to personally thank Vargas for presenting this bill. I'm Y'Shall Davis. I'm a community organizer for the Heartland Workers Center, focusing in north Omaha. Y'Shall is spelled Y-s-h-a-l-l. Davis, D-a-v-i-s. I support LB1157, bill to end prison-- prison gerrymandering and count them in the district of last residence. I support this bill because most prisoners are taken care of by their family and community members. Although they're located far from their home, they still create a financial strain on the communities they come out of. Most of them have no intention of living where they are housed once they are free. It's safe to assume their incarceration comes out of desperation. Most of the community these prisoners come out of lack resources and opportunities for advancing themselves financially. This is why it's important to count them in the communities they come out of to increase their resources that come into those communities. I

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Executive Board February 12, 2020

have a big brother that is a lifer. He's been locked up for over 35 years and whenever he's had issues that his ombudsman couldn't address, he's always been like, contact Senator Chambers, I need help, I need this, I need that. And I'm like, OK, like, I was so young when he first went in. I'm like, who is Senator Chambers? You know, I don't even know what you're talking about. But it's like-- he's never focused on reaching out to get representation from the representatives in that county. He's always come, you know, want to go back home. You know, the community he has come out of, people would understand his plight and what he's going through. So-- and just recently he asked me to reach out to Senator Wayne. So you know-- even though his long incarceration, it's still the people from the area he's come out of, that's what he focus on. If and-- if he is ever released, then-- that-- he's definitely coming back home. So I just wanted to have a voice for him. And pretty much anyone in my family who's ever been incarcerated has always come back home. No one's ever tried to stay in those areas, you know, they know where their representation is. They know where their support comes from. And that's why I support this bill, because they need to be counted in those areas, in my opinion.

**HILGERS:** Thank you, Ms. Davis, for your testimony.

**Y'SHALL DAVIS:** Thank you. I appreciate it.

**HILGERS:** Are there questions? Seeing none, thank you for coming down today.

**Y'SHALL DAVIS:** Thank you, appreciate it.

**HILGERS:** Next proponent for LB1157. Welcome.

**SCHUYLER GEERY-ZINK:** Good afternoon, Chairperson Hilgers, committee members. My name is Schuyler Geery-Zink, S-c-h-u-y-l-e-r G-e-e-r-y-Z-i-n-k, and I'm a staff attorney with the Nebraska Appleseed. We're testifying in strong support for LB1157, which creates a fair process in counting Nebraska residents for redistricting and community funding purposes. Incarceration is a temporary situation. At least 95 percent of people in prison will return to their home communities at some point. In the meantime, they're in contact with their families and remain plugged into their home communities as you've heard so much today. Counting people where they are temporarily staying poses several issues related to fair representation, adequate and appropriate community funding, racial

justice, and the law. All people who are incarcerated should be counted in their home communities. The current policy disproportionately deprives communities of color of political capital and critical community funding and, reallocates it to other communities which often can't even use that capital. One example of this is the Tecumseh facility, which makes up nearly one fourth of the entire population of Johnson County. And if you note footnote 2, the Nebraska prison population is about 27.7 percent African-American, whereas the total population of Nebraska is only 5 percent, so this is a racial justice issue. Unfair redistricting violates the Fourteenth Amendment's one-person, one-vote principle. Fundamentally, it is unjust to not count someone in their home community and instead count them in a jurisdiction they are only temporarily located in. People are counted for a voting district where they can't and don't vote. The districts where prisons are located unfairly benefit from the counted prisoners, even though the prisoners and their families do not enjoy the benefits that the census count provides to that area. Entire swaths of underserved communities in Nebraska, including communities of color, lose access to important resources and political representation when they are not accurately counted. A prison is not a home. People should be counted in their home communities where they are from and most likely will return to after serving their sentence. For these reasons, we urge the committee to support the fundamental rights of Nebraskans to be counted fairly in the census by advancing LB1157. Thank you.

**HILGERS:** Thank you for your testimony. Are there questions? Seeing none, thank you for coming down. Next proponent for LB1157. Mr. Geis, welcome.

**GAVIN GEIS:** Chairman Hilgers, members of the committee, my name is Gavin Geis. G-a-v-i-n G-e-i-s. And we are in support of LB1157. I'm representing Common Cause Nebraska. You know, I'll keep this short and just say only that if we don't shift this, there's no way we're gonna get accurate redistricted maps when we redistrict again. Unless we shift these populations at the very least across the state, there is no way we can know who's really represented in any one community that has a prison in it. And if we're gonna hold these maps up as accurate for 10 years, we have to expect at least a little bit of play in where these prisoners are going to be. Yes, they may move after they get out. Yes, they may get out and just go to a different state. But saying that they are in a certain district and counting them all in that district just makes that district less accurate, less fair in

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Executive Board February 12, 2020

terms of what the population is, who lives there, and who the legislator that represents that district is really representing. So in the interest of just accurate, fair maps, this is an adjustment we should be making. Thank you.

**HILGERS:** Thank you, Mr. Geis. Any questions? Seeing none, thank you for your testimony. Next proponent for LB1157. Welcome.

**TYRONE AMOS:** How you doing today?

**HILGERS:** Hi.

**TYRONE AMOS:** My name is Tyrone Amos. That's T-y-r-o-n-e A-m-o-s. I'm representing myself. I'm a construction worker, you know, not a community organizer. But after today I'll be going to become a community organizer because of that. But I am in favor of LB1157 because I feel like it's stripping the power of the communities where we come from. And it's not allowing as much funding to go to those communities to help people not be in prison. I feel like a lot of people go to prison because of-- where I'm from, from north Omaha, and there's a lack of resources everywhere. Even in your-- I heard some people talk about the streets and everything. I know you've all been in Omaha recently [LAUGHTER]. But it's a citywide issue funding-wise. I feel like that's a big part of the issue. Because a lot of people-- I don't know, like numbers-wise, but thousands and thousands of people are going to prison from Omaha. And if they're being counted in different communities, then we're losing funding.

**HILGERS:** All right, thank you, Mr. Amos, for your testimony. Are there questions? Seeing none, thank you for coming down today.

**TYRONE AMOS:** Yeah. [INAUDIBLE].

**HILGERS:** Appreciate your testimony. Next proponent for 11-- LB1157. Welcome.

**MICHELLE DEVITT:** Hello, Chairman Hilgers and members of the committee. My name is Mich-- Michelle Devitt. I am a labor attorney and legal and policy coordinator with the Heartland Worker Center. My name is M-i-c-h-e-l-l-e D-e-v-i-t-t. And in light of this sort of short amount of time, I'm going to allow my testimony to speak for itself to some degree. But I did want to respond to the concern that there's sort of a pejorative sense around ger-- gerrymandering. And although I do believe that it is a racial justice issue and that the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Executive Board February 12, 2020

disproportionate effects falling on communities of color transfer power away from those communities is an issue, this is the perfect example of where a-- an unintentional non-- non-race-conscious policy, like how we count-- how we count people on the census, can impact racial justice with nobody having any poor intent in that way. This is just a mechanism that's been around for centuries, and it wasn't until the early 2000s that people even began to be terribly concerned about it in 2010, before the census started to adjust for it and create products to compensate for it. So I don't think that necessarily means that anyone had poor intent, but it still is a fix that we need to make for-- for equality reasons and for fairness reasons. So-- that's all, I commend you to advance the bill to the floor. And thank you for your time.

**HILGERS:** Thank you for your time. Thank you for coming. Questions? Seeing none, thank you for your testimony. Other proponents for LB1157? Sir, were you-- OK. Anyone wishing to testify in opposition? Seeing none, anyone wishing to testify in a neutral capacity? Seeing none, Senator Vargas, you are welcome to close.

**VARGAS:** Chair Hilgers, members of the Executive Board, want to thank you. Good questions. There's just a couple of things I wanted to make sure to react to. Did-- we got an accurate count for the actual prison population so just referencing-- it is 5,600 operational capacity, as you all know, because you've had some issues with overcrowding in our prison system. I do understand and-- and the last testifier just brought up this gerrymandering-- I think a little different. The term they're using in prison gerrymandering, the intention here is not making an assumption on what was done intentionally, but more what the practice is. If we can ensure the practice is counting people where they actually reside under our state statutes, that's what we really want to do. And this is not having to do with-- with anything other than our census count and making sure that they're accurately counted in the place where they reside. So I just wanted that to be stated. I hope the committee can support this bill. I think it is pragmatic. It makes a lot of sense. We would not be alone. And the census has the tools to then be able to give us the data files and all we need to then make this work because they recognize that states are figuring out ways to address this. And some states that have done it in statute, again, some are doing it because of either pending case law-- some may not have even had the practice in place altogether and have

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Executive Board February 12, 2020

been doing it right the entire time. But seven states have put in law to address this issue because they weren't doing it correctly.

**HILGERS:** Thank you, Senator Vargas. Are there questions? Mr. Speaker.

**SCHEER:** Senator, if you don't know, you can get back to me--

**VARGAS:** Uh-huh.

**SCHEER:** --or I can look it up but-- in a census, how are students counted? For example, college students.

**VARGAS:** I'll have to get back to you on that. That's a good question.

**SCHEER:** I don't know positive, but I think they're counted in the location that they're going to school. So those students that would be in Lincoln, in a dorm, when they fill out the censuses they become residents-- technically aren't counted in those areas.

**VARGAS:** So I'll get back to you. But from my-- my understanding is, it's a choice on whether or not they establish their residency in the-- wherever they're going to college or they maintain their residency in their hometown, which gets back to-- it's not a choice for a incarcerated individual in our correction system. We're not establishing that as the residence. But we'll get back to you with a definitive answer. And one other response to the-- to the county question. By law, you can't keep somebody in the county jail for more than a year. And either way, the county jails are likely to be in their counties, obviously. So this isn't really affecting them. So the reason why we didn't expand it to county jails.

**SCHEER:** But that's not entirely true to the extent that there are a number of counties now that no longer have a county facility--

**VARGAS:** Uh-huh.

**SCHEER:** --because of the costs in a small-- small amount of that. So you have regional county facilities where a county may pay for the incarcerated person for that period of time to be in somebody else's-- so in those cases, it truly would skew those numbers, although maybe smaller but it would still distort those.

**VARGAS:** We'll look into it but my understanding is we can't keep anybody in a county jail for longer than a year. Which is why we--



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Executive Board February 12, 2020

**SCHEER:** That isn't--that isn't census. The census is just a snap-- a snapshot at whatever point in time.

**VARGAS:** It is, but it would be a question of whether or not somebody living someplace, being-- being housed in a place against their will-- it wasn't their intent-- for less than a year-- establishes the residence.

**SCHEER:** [INAUDIBLE] now-- now we're defining less than a year. And so-- I mean--

**VARGAS:** Uh-huh.

**SCHEER:** --again, not nitpicking, but if you've got somebody incarcerated in, for example, the Lincoln or Tecumseh facility--

**VARGAS:** Uh-huh.

**SCHEER:** --and they're going to be released in less than a year, then, you know, again, same situation.

**VARGAS:** And it-- and it's why in the census when we're-- when we're counting it, we're not count-- we're counting it once every 10 years. So to make sure that it's fair for the way everybody is counted, we're counting residents as a snapshot rather than doing it continually. But--

**SCHEER:** OK. Thank you.

**HILGERS:** Thank you, Mr. Speaker. Thank you, Senator Vargas.

**VARGAS:** Thank you.

**HILGERS:** We have no letters on this bill, and that closes the hearing on LB1157. How many individuals would wish to testify on the next bill, LB1207? OK. OK. OK. We'll be all right. We'll stick with the three minutes, and I think we'll be OK. So turning to our next bill, LB1207. Senator McCollister, welcome.

**McCOLLISTER:** Good afternoon, Chairman Hilgers and members of the Executive Committee. I am John, J-o-h-n, McCollister, M-c-C-o-l-l-i-s-t-e-r, and I represent Leg-- the 20th Legislative District in Omaha. Redistricting occurs every 10 years, and it's one of the most consequential processes this body ever undertakes. It is, therefore, essential that we approach this task while granting it the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Executive Board February 12, 2020

great respect it deserves. We have all heard the stories; the 2011 redistricting plan was carried out with partisan design and results. Now, nine years later, whether the redistricting was in fact partisan is irrelevant. But with that history in mind, it behooves us in this session to create a plan that removes the partisan tendencies as best we can. Today I am introducing LB1207. This proposal would create the Redistricting Act. The eight sections of the ACT supplement the Nebraska Legislature's Redistricting-- Redistricting Committee, Rule 3, Section 6 with protocol and substantive guidelines. The guidelines would not replace the existing rule. LB1207 uses the same formula employed in previous redistricting efforts. That is, nine members selected by the Executive Board, with three coming from each congressional caucus to serve on a Redistricting Committee. A central feature is that no fewer than four and no more than five can be selected from either of the two major political parties. LB1207 has two primary objectives. First, the bill would remove political party affiliation and voter registration lists and voter history from consideration. Second, the bill, which-- the bill would streamline the process of drawing district boundaries by limiting efforts to amend boundaries once the committee's bills are made available for floor debate. LB1207 provides the Redistricting Committee chair and vice chair be elected by a supermajority of at least six of the nine members of the committee. Of course, that means at least one Democrat needs to vote for the officers, which would reduce the partisan tendencies. I would also recommend that the board add a requirement for supermajority votes to move the maps from the committee to the floor to-- for General File debate. Substantive guidelines are outlined in Section 4 of the bill. The language in sub (4) of this section came from Senator Vargas's 2019 redistricting proposal. In Section 4, political neutrality is the key consideration. This section would do more to accomplish neutrality in-- than earlier legislatures have been able to achieve. LB2-- LB1207 would create-- would make these principles as a matter of law to guide future legislatures. It's been noted that there may be some redundancy regarding the legislative districts in Section 4. I want to acknowledge that and suggest the bill may need some improvement in this area. This can be done without undermining the bill's primary objectives. Other states have gone so far to remove the redistricting process entirely from the legislatures. That is a bridge too far for Nebraska. My bill LB253, offered last year, embodied the commission model found in other states, most notably Iowa. But it's my candid assessment that this bill of this sort would not pass this body or be signed by the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Executive Board February 12, 2020

Governor. We all understand the process must ultimately result in legislation that creates these boundaries. Adopting the guidelines in LB1207 is a good first step in this process. In addition to addressing possible redundancy in Section 4, it's also been rec-- recommended that the 1 percent population deviation in Section 4(2)(a) really needs to be increased to 5 percent. As mentioned, I've received suggestions to require a supermajority vote by the committee to move maps to the floor. Another idea offered to me, it would require Legislative Research to create a visual comparison of current and proposed maps by superimposing existing maps over the early versions of the new replacement maps. I believe these suggestions would improve the bill. Mr. Chairman, I'm happy to answer any questions.

**HILGERS:** Thank you, Senator McCollister. Are there questions? Seeing none, assume you'll stick around for closing?

**McCOLLISTER:** Absolutely.

**HILGERS:** All right. First proponent for LB1207. Welcome.

**JOHN HANSEN:** Mr. Chairman, members of the committee, for the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I am the president of Nebraska Farmers Union. And we have supported a variety of approaches in the past, including the legislatively successful efforts of Senators Mello and Murante relative to the--the approach of how to go about redistricting in order to be able to isolate the impact of partisan politics and make sure that the redistricting process comes with clean hands and does the people's will. Unfortunately, that bill was vetoed by the Governor. So we view this effort as something that is-- is-- is doable and represents an improvement and a clarification of the process. And so I'm-- I've been asked the question before: Why would Farmers Union care about these things? And I would say that Farmers Union worked with Senator Norris to help create the Unicameral in the first place, and that there were two primary reasons that we did that, which was consistent with the-- the logic of the time. And one is that it would save money and two, it would get rid of the debilitating impact of partisan politics in the development of state policy. And so for both of those reasons, and especially at that time, a very-- a much more heavily rural state, rural parts of the state strongly supported the creation of the Unicameral. So anything that we can do to protect the public perception of the Unicameral and to keep partisan politics out of it, in our view, behooves the Unicameral system which we deeply support

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Executive Board February 12, 2020

and believe in. And so we would thank Senator McCollister for bringing this bill forward. We think that a half a loaf is better than no loaf at all. And so with that, would end my comments and be glad to answer any questions if I could.

**HILGERS:** Thank you for your testimony. Are there questions? Seeing none, thank you for coming down.

**JOHN HANSEN:** Thank you very much.

**HILGERS:** Next proponent for LB1207.

**DANIELLE CONRAD:** Hi. Good afternoon. My name is Danielle Conrad, D-a-n-i-e-l-l-e. It's Conrad, C-o-n-r-a-d. I'm here today on behalf of the ACLU of Nebraska. First of all, I want to thank Senator McCollister and his cosponsors for introducing this legislation. We're proud to offer our support. And I am visiting with you all about these issues for the last couple of years and as recently as just a few weeks ago. But the hallmark of sound redistricting reform from the ACLU's perspective includes a couple of key components. First, it reduces partisanship. Second, it increases transparency and citizen participation. And three, it protects minority voting rights. So we see a lot of good in this proposal in terms of strengthening public participation, strengthening transparency, and decreasing partisanship. So that's why we're here to offer our support for this measure. We're happy to work with Senator McCollister and the committee on this or the other redistricting reform proposals that are before you. And not only is it good policy, but it's in line with our political culture in Nebraska which, as John Hansen just noted, it's different; it's special; it's unique and works. It works for our citizenry. When we put aside partisanship and focus on good policy and focus on good governance, we have good outcomes for our state. Redistricting is one of the key activities that is an outlier in our political culture. So anything that we can do to minimize partisanship ensures that we have more faith in our democratic process, ensures we have more fairness, and ultimately that we have better policy that-- that benefits everybody in Nebraska. So thank you so much. Happy to answer questions.

**HILGERS:** Thank you, Senator Conrad. Are there questions?

**DANIELLE CONRAD:** Thank you so much.

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Executive Board February 12, 2020

**HILGERS:** Seeing none, thank you. Next proponent for LB1207. Welcome.

**SHERI ST. CLAIR:** I'm Sheri St. Clair, S-h-e-r-i S-t C-l-a-i-r, here speaking for the League of Women Voters of Nebraska. The League is here today to indicate our support also for LB1207. We support the text of the bill that requiring use of politically neutral criteria. However, we feel that it's critical to ensure that the maps are drawn by the Legislative Research Office using software that it prepares and has approved. Preexisting software, which has been prepared by groups-- political orientation should not be used for this process. We also note that the rules of the Legislature state that no more than five members of the committee should be affiliated with the same political party. But we know that at least 21 percent of voters in Nebraska are registered as Independents. And so it's important to assure that their interests are also represented in this process. And although it's not specifically stated in the proposed legislation, the use of politically neutral criteria should also help avoid the two gerrymandering tactics of packing and cracking, which you want to avoid. So to reiterate, League of Women Voters of Nebraska supports LB1207 and urges you to advance it to the General File for full debate.

**HILGERS:** Thank you for your testimony--

**SHERI ST. CLAIR:** Uh-huh.

**HILGERS:** --Ms. St. Clair. Are there questions? Seeing none, thank you for coming down.

**SHERI ST. CLAIR:** OK, thank you.

**HILGERS:** Appreciate it. Next proponent for LB1207. Welcome back.

**WESTIN MILLER:** Thank you. Chairman Hilgers, members of the committee, my name is Westin Miller, W-e-s-t-i-n M-i-l-l-e-r. I am still the director of public policy for Civic Nebraska. Civic Nebraska supports improving our redistricting process pretty much any way that we can. We are open to an independent commission. We like LB1207. We're also fine with the legislative rules. We just want the process to be transparent and to be accessible. I think the merits have been really well-covered of LB1207 by the folks in front of me. So I just want to point out-- I think one thing that is a little unusual about LB1207, which is really more of a quirk of the broader redistricting conversation, but I urge you to take into consideration as you vote--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Executive Board February 12, 2020

as you weigh whether or not to advance this out of the committee. Most of the major issues that this body covers-- property taxes, school funding, prison overpopulation, and even other election issues like voter I.D. or voting by mail-- those issues are constantly relevant. They're constantly being talked about. There's an annual queue of bills about these issues. And as a result, there's constant chatter surrounding these issues. So if one of your constituents wants to know about property taxes in Nebraska and the debate, they pretty much just need to Google it or listen to NET for, like, five minutes, and they will-- they'll catch up on the conversation. You don't have to-- as senators, you don't have to work really hard to make that information available. It's-- it's very well covered. Redistricting is really different. This once-a-decade process is very dense. It can be very confusing. And regardless of the reality, it is perceived by a lot of your constituents as hyperpartisan and not very transparent. So that's why, as someone representing an organization that is, as I mentioned earlier, dedicated to improving public trust in the electoral process, I would urge you, regardless of whether or not you plan to support LB1207 on the floor-- I would strongly encourage you to advance it to the floor so that your constituents have a chance to see a robust debate about this subject. Let your constituents watch it online. Let the press write about it and give it-- this very solemn, once-a-decade issue-- at least three hours of discussion on the floor. I think that that discussion itself has tremendous value to the state. It has tremendous value to your constituents regardless of what happens to the bill itself. So with that, I'd be happy to answer any questions. Otherwise, thank you for your time.

**HILGERS:** Thank you for your testimony. Are there questions? Seeing none, thank you for coming. Other proponents for LB1207? Anyone wishing to testify in opposition? Seeing none, anyone wishing to testify in a neutral capacity? Welcome back.

**GAVIN GEIS:** Chairman Hilgers, members of the committee, my name is Gavin Geis, G-a-v-i-n G-e-i-s, and I am representing Common Cause Nebraska. We're testifying in the neutral on this bill. We recognize that there are many great things about it, that it would improve our process in important ways. But frankly, as long as this process remains in the hand of the Legislature, it's really hard to support a change because the Legislature is always going to have some bias when it comes to drawing your own districts. Even if it's unintentional, you're going to have some bias. There's nothing wrong with bias except when it affects other people. And in the redistricting process, we can

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Executive Board February 12, 2020

affect a lot of people unintentionally just from feeling like, maybe here instead of there, maybe these five people instead of those five people. Just like the issue we talked about before, these maps are 10 years, and we should take it seriously. So, yes, we're supportive of what's in this bill. We don't think it goes far enough. We think it's a missed opportunity to do something truly good for the people of Nebraska and for the Unicameral. So thank you.

**HILGERS:** OK. Thank you for your testimony. Questions? Seeing none, thank you for your-- for coming down. Others wishing to testify in a neutral capacity? Seeing none, Senator McCollister, you're welcome to close.

**McCOLLISTER:** Chairman Hilgers, members of the committee, thank you very much for your kind attention this afternoon. And I really did consider whether to incorporate or continue efforts on that commission process that I introduced last year. And I came to the conclusion that the process that we currently have is a pretty good one, particularly if we add some safeguards that I've added with regard to a supermajority. I think that does, I think, goes further than having some outside group that we appoint with their-- with their biases. So I actually think this-- this current system that we have with new-- with new guarantees would actually be better. So I simply want to respond to that argument. With that, I'll-- I'll stand for any questions.

**HILGERS:** Thank you, Senator McCollister. Are there remaining questions? Seeing none. We do have four letters in support: from the Hollings-- Holland Children's-- Holland Children's, which one? [INAUDIBLE]. Heartland Work Movement [SIC] thank you. The Heartland Workers Center. Steve Dunbar from Lincoln, and Char-- Professor Berens-- Charlyne Berens from Lincoln. With that, that will close our hearing on LB1207 and our hearing for the day.

\_\_\_\_\_: Oh.

**HILGERS:** Thank you.