

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate January 21, 2021

**HILGERS:** Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the eleventh day of the One Hundred Seventh Legislature, First Session. Our chaplain for today is Senator Geist. Please rise.

**GEIST:** Thank you, Mr. Speaker. And thank you, colleagues. I'll be reading a prayer this morning that was given to me from a copastor of my church, Mercy City Church here in Lincoln, Pastor Carrie Erikson. Let us pray. Father God, thank you for today. Thank you for the peace and prosperity of our state and of our nation. Today as we gather together, I thank you for the men and women present who have the opportunity to govern our state. I pray that they would choose to honor you and ask for your wisdom and strength to make decisions that reflect your heart for people. Protect each person who is present in this room today that they would be healthy and focused on the task at hand. I come against fear and confusion and pray that your truth would lead and guide this group of people to make decisions that honor you. Your word says that where there is unity, you have-- you command your blessing. And so today we pray that each person's heart would be unified together with yours, that they would see things the way that you do and honor you in word and action. I pray that there would be respect for one another and that they would hear one another with an open heart and mind. Let your will be done and in and through each person present today. Thank you for this room full of people who have been given this great opportunity to lead and be a voice in this season. I pray that today you would-- I pray that today would be pleasing to you and that we would be led by the power of your spirit. In Jesus' name, amen.

**HILGERS:** Thank you, Senator Geist. I call to order the eleventh day of the One Hundred Seventh Legislature, First Session. Senators, please record your presence. Roll call.

**HUGHES:** Mr. Clerk, please record.

**CLERK:** I have a quorum present, Mr. President.

**HUGHES:** Thank you, Mr. Clerk. Are there any corrections for the Journal?

**CLERK:** I have no corrections at this time.

**HUGHES:** Thank you. Are there any messages, reports, or announcements?

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**CLERK:** There are, Mr. President. Hearing notices from the Health and Human Services Committee, those signed by Senator Arch. New resolutions: Senator Geist offers LR32. That will be laid over. Health Committee would like to announce Senator Williams has been selected as the Vice Chair and General Affairs would like to announce that Senator Lowe has been selected as Vice Chair of General Affairs. That's all that I have at this time, Mr. President.

**HUGHES:** Thank you, Mr. Clerk. Senator Albrecht would like to recognize Dr. Dave Hoelting from Pender, Nebraska, who is serving as our family physician of the day. Please rise and be recognized for your Nebraska Legislature. We will now proceed to the first item on the agenda. Mr. Clerk.

**CLERK:** Mr. President, Senator Hunt, would move to withdraw LB232.

**HUGHES:** Senator Hunt, you are recognized.

**HUNT:** Thank you, Mr. President. Thank you, colleagues. As we very well know, sometimes with a bill we don't get it quite right and that was the case with this bill. So I'd appreciate your green vote to allow me to withdraw it. Thank you.

**HUGHES:** Thank you, Senator Hunt. Seeing no one in the queue, the motion to withdraw LB232. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 38 ayes, 0 nays, Mr. President, to-- on the motion to withdraw the bill.

**HUGHES:** Thank you. Speaker Hilgers, for an announcement.

**HILGERS:** Thank you, Mr. President. Good morning, colleagues. As promised last week, if you remember my announcement last Friday, I, I let the body know, as you know, we are going to go into all-day hearings starting on Monday. And as I promised last week, I wanted to give the body an update on some of the COVID procedures that we have-- that we are implementing and putting in place because everything is going to look a little bit differently. And I wanted to talk a little bit as well about some of the expanded options for the public to be able to testify without actually having to sit in the, in the committee hearing rooms for their own health and safety. And so I want to talk about those briefly. I would announce these on Friday, but I want to give both the body and the public some time to digest these rules and procedures before we come on Monday. So there are two big buckets I'm going to talk about. The first is the procedures within

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the committees themselves and the second is going to be the public options. So number one, we have a list and I've worked, by the way, with the Clerk's Office, the-- all the standing committee chairs, as well as the staff in the-- in the Speaker's office and Lancaster County Health Department to come up with these procedures. So-- and we've had a lot of input from other members and I appreciate all-- everyone's help in formulating these. First and foremost from a physical space perspective, as you all, I believe, know, our committee hearing rooms are very-- are going to be limited to-- in order to accommodate social distancing. And so we have procedures to help encourage making sure that the people who are in the hearings are just the people who are going to be testifying on those particular hearings. We're going to designated entrance signs and exit signs. And we're going to-- we're going to make sure on the outside of the committee, committee hearing rooms like we do when people are watching on NET, that people know which bills are being heard to enable us to just have the folks who just need to be there for the-- for their testimony there and then they, they can leave. Within the hearing rooms, we're going to have the shields that you've seen. We'll have the sanitizers that you've seen. We're going to ask people to limit handouts. And as well, we're going to ask people to wear masks within the committee hearing rooms. In addition, we have, and I've mentioned this, in order to make this work, we're going to have members who are going to have to self-quarantine. And we're going to have members that are likely to be testing positive-- who are going to test positive through the session. In order to make this work, we need to have options for those senators to be able to participate in this process remotely. It's very important. And by the way, if you fall into either of those two camps, you should participate remotely. So if you are quarantining as a member or you-- certainly if you test positive, you should participate remotely. In order to do that, we've set up some procedures to make that happen. Now I want to be really clear that this is only for, this is only for those senators who are quarantining or test positive. This is not for I have a, you know, I can't make it. I just want to be able to call in. That's not how this is going to work. Now we've-- we're providing some logistical procedures to the standing committee chairs. I have an email out to them a little bit later this morning to ensure that if this happens, we have an orderly processing of questions and back and forth. And so we're going to send that to the committee hearing chairs. It's going to really entail-- it's not going to be our conference call system that we've, I think we've used from time to time. That's just not logistically going to work for the volume of hearings and testifiers that we think we're going to have. It's going to be a little bit different system. So we'll send that out to the standing committee chairs and look for that

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in your email before the end of this week. The last thing on the committee procedures, and this is less on a safety procedure, but it's a big picture to help our team. So in order to do the all-day committees, I just want to-- committee hearings, I want to be really clear. I think many of you know this, but our committee clerks are really taking on a significant burden. This is a very burdensome process for them to be able to do it. And they are part of our legislative team. And I think it's our responsibility to do what we can to help relieve their burden if we can. So one of the things that I'm asking every member to do is we're going to change the rule and the timeline for providing statements of intent. So, as you know, under our rules, you have one day before the committee hearing to provide statement of intent to the-- to the committee clerks. We're asking everyone to do-- to give more time for that. And so here's for, for any committee hearing on Monday, so this Monday when we start, January 25, the statements of intent should be in to those committees by tomorrow. That's going to be by the rules. So that's by tomorrow. For every other hearing Tuesday through Friday, we're asking all of those statements of intent to be into the committee clerks by 9:30 morning of that Monday. So it's not a big burden on all of our legislative staff, but it's going to save a lot of work for our committee clerks. So that's the third thing for this process to make work. The second category of items to talk about and we're going to send out-- a lot of this is going to get disseminated in detail to you. Again, I'm just hitting the highlights. We'll have a floor announcement. We'll send out an email. This will all be posted online. The second bucket of items is the expanded public option access. And we really have three things that I want to reference for the body. Number one, we are providing a new mechanism that we're calling written submitted testimony to allow those who would like to testify in a hearing but are concerned about waiting in that public hearing room, but they really want to have both their, their testimony on the record, they want to have their testimony as part of the hearing transcript, and they want to be on the committee statement. Not everyone wants those things, but some people do. And so we're providing a new mechanism to allow people to bring that testimony. And there's page limits and they have to have it in writing. It's got to meet some requirements. Again, each one of these requirements will be posted. I'd encourage you, your constituents to look at it very closely to make sure you check every single box. They will be able to bring that testimony to us within a certain specified time period and they will avoid having to sit in the hearing rooms. So that will both, I think, alleviate some congestion in our hearings rooms, but also give those members, those members of the public who have some safety and health concerns the ability to not have to-- to be able to both

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have their voice heard in the way they'd like without having to attend the hearing personally. So that's option one. Option two and, and here I need to thank the legislative IT staff. We are, we are rolling out an expanded electronic comment submission, basically application that's going to be through the legislative website. This should be up this week. It will allow members of the public to be able to have their voice heard, be able to comment on bills, on bills at any stage of debate. So it's expanded as to our, our current position letter requirements that we currently have now and internally to the body on UNINET, we will be able to-- it will create a database that we'll be able to access and look at bills and be able to sort by legislative districts and be able to see who from our districts or who from around the state are weighing in on various bills. So hopefully this will add another very easy and convenient way for members of the public to have their voice heard, even though during this coronavirus time they may not want to come down personally and come down and testify. That's two. Number three isn't really a new option. It's the position letter. As you all know, we-- constituents can send in emails to the committee staff and/or committee members in the past and those can get part of the record. So when the, the committee actually puts together the record with the exhibits and the transcript and everything at the end of the hearing, those go into the record. What we're doing there is we're streamlining that process and making it consistent across committees. One of the things we've heard from the public and from other members was the inconsistency made it a little confusing for members of the public. So what we're doing is we're make-- we're harmonizing those provisions and making it a lot easier for members of the public and for committee staff to be able to, to process those. So those are the three big public options that we are providing people. Again, this isn't ideal. It's not perfect. We all wish we didn't have these dividers. We all wish we could have all of our constituents come down for all the hearings that we have. It's such an important part of our process. And so, unfortunately, we can't do that this year. And so I'm asking your grace and patience. I'm asking the public's grace and patience. We think these are ways that we can accommodate our goals, which are to do our business, but also ensure that the public's voice, the real second house, is heard through our process. One last thing just COVID related. I will just tell you I've had some questions in the last 24 hours about, about COVID, some of our procedures. I will be sending out an email, I hope this morning, that makes really clear our guidelines and procedures and ask some of the questions that I've received off the mike. If you have any questions about these or about what I just said, please find me. Please find anyone in my office. You can also find Senator Hughes on some of the safety procedures. I really do want to thank everyone involved with this. This did-- this

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was very collaborative. It came with the help and the input of the standing committee chairs. We've been working on this for several weeks. It's not perfect, but I think it will help get our job done. So thank you very much. Thank you, Mr. President.

**HUGHES:** Thank you, Senator or Speaker Hilgers. Speaker Hilgers for a motion.

**HILGERS:** Thank you, Mr. President. I move that a committee of five be appointed to escort the Chief Justice of the Supreme Court to the legislative Chamber for the purpose of delivering the State of the Judiciary address.

**HUGHES:** Thank you, Senator Hilgers. Colleagues, you've all heard the motion. All those in favor say aye. Opposed say nay. The motion is adopted. I will appoint the following committee members to escort the Chief Justice: Senators Morfeld, Briese, Slama, John Cavanaugh, and McKinney. If you would retire to the rear of the Chamber to escort the Chief Justice.

**HILGERS:** Mister Sergeant at Arms.

**SERGEANT AT ARMS:** Mr. Speaker, your committee now escorting the Chief Justice of the Supreme Court of the great state of Nebraska, Mike Heavican.

**HILGERS:** Members, the Chief of the Nebraska Supreme Court, Mike Heavican.

**MIKE HEAVICAN:** Thank you. Thank you, Mr. Speaker. You may all be seated. Mr. Speaker and members of the Legislature, thanks to all of you, particularly Speaker Hilgers, for inviting me to address you again this morning. As always, it is an honor for me to report on the accomplishments of our judicial branch and to discuss our upcoming plans with you. Although not with me in the Chamber today, my fellow justices are watching on live stream: Justice Lindsey Miller-Lerman of Omaha, Justice William Cassel of O'Neill, Justice Stephanie Stacy of Lincoln, Justice Jeff Funke of Nebraska City, Justice Jonathan Papik also of Omaha, and Justice John Freudenberg of Rushville. Today I will highlight the activities of Nebraska's judicial branch this past year, including our pandemic response, our access to justice initiatives, what's new with Probation and problem-solving courts, and the Office of Public Guardian. Notwithstanding the current pandemic and other challenges, we have had many successes and accomplishments in 2020 and look forward to 2021. Article I, Section 13 of our Nebraska Constitution states that "[a]ll courts shall be open, and every

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person, for any injury done him or her...shall have a remedy by due course of law and justice administered without denial or delay." This means that our courts must remain open even when much of the rest of society is not. There is no exception for a pandemic or otherwise to Nebraska's Constitution's requirement of open courts. After all, crime does not stop during a pandemic, nor does child abuse, spouse abuse, fraud, or the myriad of other social issues that depend on our courts for resolution. Open courts are essential to the daily workings of our communities and our state. Over the past year, the COVID-19 pandemic has challenged all levels of our state's government, including the judiciary. For example, over half of our judicial branch family, more than 700 judges, clerks, and staff, were quarantined at one time or another for at least two weeks. Because of our Constitution's dictate and because of our courts' vital role in society, we have taken the measures necessary to remain open safely, providing uninterrupted access to justice. From Harrison to Falls City and from Benkelman to Blair, justice is being administered without denial. Emergency preparedness planning began in 2019 when we hosted a national pandemic planning session with the University of Nebraska Medical Center in Omaha. Having that opportunity to discuss with experts the potential for a pandemic allowed us to transition quickly when COVID-19 struck. Soon after the federal government declared COVID-19 to be a public health emergency, our administrative office of the courts and probation sprang into action. Each court and probation office in Nebraska created or updated an emergency preparedness plan. The administrative office worked to refine policies and educate our work force. Our Human Resources Office conducted branch-wide web-- webinars about telecommuting and COVID-19 leave policies. So that we could continue court business, we acquired and distributed personal protective equipment and IT equipment for our personnel throughout the state. We worked collaboratively with counties to acquire Zoom accounts for our trial courts, allowing us to keep courts open even if courthouses were closed. Technological collaboration continues across the state. One example of such collaborative innovation is taking place in Dawson County. Commissioners and court staff there worked with Judge Jim Doyle to implement a pilot program of broadcasting court hearings on YouTube. Interested observers, including the news media, can watch these proceedings from the safety of their homes and offices without being exposed to the virus. Such technological innovation, which will be further touched on later in this speech, and such dedication is recognized and encouraged by the Nebraska Supreme Court. Thank you to all of our judges and staff for their leadership and accomplishments in 2020. A list of our court family members who have been recognized for extraordinary efforts is included in the packet each of you received this morning. Also a special thank-you to



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all of those institutions in this great state that have opened their doors to us to facilitate appropriately socially distanced jury trials and other hearings. Many of our courthouses and courtrooms are too small to ensure adequate social distancing for jury selection and witness presentations. Schools and organizations such as the University of Nebraska-Kearney, Grand Island Central Community College, Tekamah-Herman High School, Niobrara Public Schools, and the Lincoln Masonic Lodge all stepped up by letting us use their large public spaces to safely resume jury trials. And another special thank-you to all Nebraskans who reported for jury duty and served on juries over the last year. Jury trials are a cornerstone of our democracy and the right to a jury trial is enshrined in our Constitution. But jury service includes sacrifice, even when there is not a pandemic. We could not effectively protect the right to a jury trial without the service of Nebraskans when called. In Nebraska, almost no one refused service or refused to serve. Farmers and factory workers, doctors and ditch diggers, baby boomers and millennials all showed up proud and anxious to perform their duty. Also deserving our thanks is Nebraska Educational Television. Many court proceedings were broadcast this past, past year by our partners at NET. We genuinely appreciate the NET management and staff who extended their services whenever requested and were willing to assist us to reach Nebraska citizens to fulfill our constitutional obligations. The work of NET was supplemented by our recently adopted "cameras in the courtroom" initiatives which allow commercial television and other news media to record and broadcast trial court proceedings on news programs across the state. I sum up my comments and the court's response to the pandemic by quoting an editorial recently published in The Daily Record by retired Creighton law professor Richard Shugrue. Professor Shugrue observed that "Nebraska court leaders have been on top of this crisis since the earliest days of the calamity." He noted that our judges balanced the requirements of the state and federal constitutions to remain open, assuring the right of the press to cover court matters, the right of defendants in criminal cases to confront witnesses against them, and the right of defendants to a speedy trial. Professor Shugrue concluded his editorial by saying, again quoting, Our courts have led the way in coming to grips with COVID-19. They deserve everyone's gratitude. I concur. Our judges and staff have shown remarkable leadership throughout the pandemic and will continue their outstanding efforts in 2021. As noted, technology has been key to our pandemic efforts over the past year and will continue to endri-- to drive improvements this year. To ensure that our staff and the public are able to access the current status of court operations, we expanded our use of Facebook and Twitter. Additionally, we developed a podcast series entitled "Your Nebraska Judicial Branch"



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designed to share information about judicial branch projects. I invite each of you to listen to our podcast on any of the major national hosts, including Apple and Google, or you can link to them through our website. Our judicial branch Web site remains the primary source for lawyers and the general public to find judicial branch information, including court orders and recent court news. We would not have had the ability to rapidly respond to the pandemic if the courts had not built a strong technological foundation over the past decade. As we entered 2020, we were well positioned to transition to distance operations because we had already begun to implement new courtroom technology and programming. Our online court payment system has enabled individuals to pay traffic tickets and other court fines without leaving their home-- homes, excuse me. Our online education system has allowed guardians, judges, lawyers, and court employees to continue updating their skills virtually. Our eFiling system has allowed quarantined attorneys and judges to continue to work from their homes and offices. In 2020, attorneys eFiled a larger number of pleadings than in any previous year, over 1 million. Our eFiling system captured nearly \$5 million in court fees last year. Additionally, we collected approximately \$7.9 million in online citation payments and \$11.6 million in online payments of judgments. Last year, we eliminated the use of paper checks to transfer money from our 186 different courts to the State Treasurer and State Child Support Disbursement Unit, Unit, saving the time and resources once required for check processing. In sum, again, technology has allowed us to continue operations throughout the year. The Supreme Court and Court of Appeals held online oral arguments. As noted, trial courts held hearings virtually. Our new attorneys were sworn in with online support of family and friends. New probation officers took their oaths of office across the state by Zoom and WebEx and committee and commission meetings continued apace virtually. I now turn to various initiatives that we have pioneered to promote access to justice, civic education, and public outreach. I begin with our outreach efforts to Nebraska's four recognized Native American tribes. In 2018, the judicial branch hosted a roundtable discussion in South Sioux City. Participants included representatives from the four Nebraska-based tribes, our federal courts, the US Attorney's Office, both federal and State Departments of Health and Human Services, the Nebraska Department of Education, the Nebraska Commission on Indian Affairs, and other interested parties. That meeting ultimately resulted in the formation of the Consortium of Tribal, State, and Federal Courts, currently cochaired by District Court Judge Andrea Miller of Scotts Bluff County and Chief Judge Patrick Runge of the Winnebago Tribal Court. The consortium is part of the Nebraska Supreme Court's Access to Justice Commission, designed to fulfill our state's motto, equality

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before the law. In early June of 2020, many chief justices across the nation addressed the civil unrest stemming from incidences of-- incidents of racial injustice. My message directed to the public and to our court community is available in the Supreme Court's Annual Report provided to each of you in the packet you received today. No institution in this state plays a more pivotal role in ensuring equal access to justice than Nebraska's courts. There is no place in our court system for racial discrimination or inequality. We have recently begun a racial equity initiative through our Access to Justice Commission. This three-phase process is designed to engage court users and the public in determining equal access deficiencies in our courts. In phase one, we surveyed court users last November; and based on those survey results, we are reviewing the barriers the marginalized populations in our state have said that they face in our courts. Phase two will involve focus group sessions with community leaders across the state. And in phase three, we will host larger public listening sessions, giving Nebraskans another opportunity to reflect on access and fairness within the justice system. The timing for phase two and phase three-- three is, of course, dependent on the pandemic and our ability to hold session safely without jeopardizing the health of participants. Another of our efforts to improve access to justice in Nebraska's courts is our Language Access Program. While COVID-19 did not change our commitment to language access, it often affected the method by which interpreters could appear in court or probation settings. The Language Access Program was quick to implement remote interpreting services by telephone and by a variety of video platforms. Our interpreter coordinators offered guidance and test runs to assure seamless interpretation for Nebraska's court users with limited English proficiency as well as judges, attorneys, and jurors requiring interpreter services. As a percentage of population, the two counties with the greatest interpreter demand in 2020 were Colfax and Dawson Counties. Spanish remains the most frequently interpreted language in the judicial branch; but during the last fiscal year, 47 different languages were interpreted in Nebraska's courts and probation offices. Those languages included Albanian, spoken in Southern Europe; Gujarati, a language spoken in India; and Yoruba, a language spoken in West Africa. It has sometimes taken extraordinary efforts through our Language Access Program to ensure interpreter availability for any court user needing-- needing services. For example, this year that effort included collaborating with the Mexican Consulate in Omaha and the School for Deaf in Puebla, Mexico, to secure an interpreter for a deaf nonverbal defendant. Through invaluable outreach efforts like this, we continue to make justice in Nebraska available to all. Every annual address I've given you necessarily includes a report on probation. Probation officers serve

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every county in Nebraska and now number approximately 460. No judicial branch program is more important to Nebraska taxpayers than our adult and juvenile probation services. Adult probation provides community corrections through assessment, supervision, court management, and behavioral health services. In spite of the pandemic last year, probation supervised over 20,000 adults, including many on postrelease supervision. Successful probationers and court-- and drug court graduates are gainfully employed so that they can rejoin their communities, support their families, and pay restitution and taxes. Probation supervision costs about \$2,000 per person per year. Intensive supervision by our Specialized Substance Abuse Supervision program, which we call SSAS, served approximately 1,200 adults last year, costing approximately \$3,500 per person per year. Problem-solving courts cost approximately \$4,000 per person per year. The cost of incarceration is approximately \$41,000 per person per year. Do the math. Probation is the taxpayers' friend. During the pandemic, our pro-- probation program successfully continued to supervise individuals in their communities. Operations were modified to provide for the health and well-being of probationers and staff while holding probationers accountable. A few examples of these modifications include holding meetings outdoors and shifting from group meetings at our reporting centers to holding virtual meetings with clients. In addition, in 2020, probation replaced most traditional breath and urine tests with oral swabs and sweat patches. Please note that adult probation administers over 300,000 drug tests per year. Other probation highlights from 2020 include opening our 17th reporting center in Fremont. The locations of our reporting centers is shown on a map in the appendix, in the appendix of the packet, again, that you received today, along with a map of the locations of our problem-solving courts. Any listing of probation highlights must include recognition of decreasing recidivism rates. Our probation services, problem-solving courts, and postrelease super-- supervision emphasize addressing mental health problems and substance addictions. This emphasis results in recidivism reduction. In Nebraska, the adult recidivism rate is currently an impressive 17 percent, down significantly from 2010. Earlier, I suggested that adult probation was the taxpayers' friend. Likewise, probation-based juvenile justice has been a cost-saving success. In 2012, this Legislature entrusted judic-- or excuse me, juvenile justice supervision to Nebraska's probation services. Since fiscal year 2017-2018, \$22 million has been saved and returned to Nebraska's General Fund as a result of juvenile probation's work. The number of detained youth has been reduced by 18 percent this past year, and the use of congregate nontreatment placements such as group homes decreased by 10 percent from fiscal year 2019 to 2020. And

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importantly, recidivism rates for juvenile probation have also improved over the years from a high of 29 percent in 2010 to 24 percent in 2018 to its current rate of 19 percent in 2020. I have suggested twice in this-- in this message the close relationship of probation and our problem-solving courts. Earlier this month, an editorial appeared in the Omaha World-Herald offering support for the development of our, our problem-solving courts, calling our efforts "one of the smartest steps Nebraska has taken over the past two decades." As the article notes, again quoting, The courts provide a unique combination of benefits to Nebraska by being humane, practical and cost-effective, unquote. In the court system, we wholeheartedly agree. However, as the editorial also notes, judicial resources are at capacity and more judges will be needed to aid these successful problem-solving courts. Currently, there are 32 operating problem-solving courts in Nebraska under the authority of 46 different judges. Problem-solving courts include Adult Drug and DUI Courts, Juvenile Drug Courts, Veterans Treatment Courts, Family Treatment Courts, Reentry Courts, Young Adult Courts, and the recently approved Mental Health Court in Sarpy County. Before I conclude, I will briefly discuss the Office of Public Guardian. In 2015, you, the Nebraska Legislature, entrusted the judicial branch with oversight of that office. The Office of Public Guardian provides court-supervised guardianship and conservatorship services to vulnerable adults who have no one else to assist them. Demand for the services of public guardians continues to increase as our state's population ages. The current public guardians cannot keep up with the demand. There is a statewide waiting list of cases for public guardian services. The pandemic has been a great challenge for our public guardians. Our guardians have collaborated with state administrators, nursing home facilities, service providers, and healthcare staff to protect the lives of their-- of their wards. Among its wards, the Office of Public Guardian has over 100 wards in 40 different assisted living centers, nursing homes, and group homes across Nebraska. At the end of 2020, we had 58 wards with COVID-19 diagnoses. Three wards died of COVID-19 last year, all of whom were nursing home residents. Given these concerning numbers, staff at the Office of Public Guardian met sometimes virtually with every ward to discuss end of life wishes and create individualized pandemic medical treatment plans. The Office of Public Guardian continues to advocate for the expansion of testing and vaccinations and improve services for all of its wards and improve standards for all institutional facilities for the aged and other vulnerable individuals. When I stood before this legislative branch a year ago, none of us could have imagined the challenges 2020 would bring. Nebraska's constitutional requirement that courts shall remain open has been the judiciary's guiding principle this past year, and

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our commitment to providing equal access to justice has not faltered. In communities throughout the state, courts have taken measures necessary to remain safely open and functioning. Innovative judges and court staff have led our way forward. I am immensely proud of the judiciary's everyday heroes in our trial and appellate courts and our probation offices, the Office of Public Guardian, and more. Our court family is essential in every sense of the word. Our courts are safely open, providing uninterrupted access to justice for all Nebraskans. Again, thank you very much.

**HILGERS:** Thank you, Mr. Chief Justice. Would the committee escort the Chief Justice from the Chamber, please. Mr. Clerk for items.

**CLERK:** Thank you, Mr. President. Two items: I have hearing notices from the Revenue Committee, that's signed by Senator Linehan as Chair of the committee. That's all that I have at this time, Mr. President.

**HILGERS:** Thank you, Mr. Clerk. Turn to the next item on our agenda.

**CLERK:** Mr. President, the next motion is to adopt the permanent rules. Senator Clements has offered that motion as Chair of the Rules Committee. I do have Rules Committee amendments. I might indicate to the membership that copies are being distributed to you as I speak. Senator Clements, I [INAUDIBLE].

**HILGERS:** Yeah, thank you, Mr. Clerk. Senator Clements, you are recognized to open on the motion.

**CLEMENTS:** Thank you, Mr. President. Thank you, colleagues. The Rules Committee did meet and considered quite a number of rules proposals. I appreciate all those who did make proposals and suggestions. There were some good ideas there. The Rules Committee ended up adopting three for our report. The first one I'd like to bring forward is proposed rule change number 14 by Senator Matt Hansen. First of all, I'd like to thank the Rules Committee for their work. Senator DeBoer, Senator Matt Hansen, Senator Erdman, Senator John Cavanaugh, Speaker Hilgers, and myself comprise the Rules Committee. And the first one that we are proposing is in Rule 1, Section 1 about election of our officers. That has two parts. The current rule said that we'll elect six members of the Executive Board, two from each congressional district, and it says the Legislature elects these. Well, our practice has been that each separate caucus does that. And this clarifies that the six members of the Executive Board are filled by a majority of vote of the members of the respective caucus and clarifying that it is not from the entire Legislature that they're elected. Similarly, the Committee on Committees, the current rules said the Legislature shall

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elect a Committee on Committees with four from each congressional caucus. It does-- didn't really say that it had to be by each respective caucus, but this rule change will say that these Committee on Committees members are filled by a majority vote of all members of their respective caucus from which the positions represent. And this is clear-- this is just putting in our rules what we have been doing in practice, that the entire Legislature does not vote on each caucus, executive position or Committee on Committees position. But just that prospective caucus is going to choose those members. And I thank you-- thank Senator Matt Hansen for bringing this and it-- I believe it'll be a clarification to put into our rule what we actually have been doing. With that, I yield the rest of my time to Senator Hansen if he'd care to explain it further.

**HILGERS:** Senator Hansen, seven minutes.

**M. HANSEN:** Thank you, Mr. President. And thank you, Chairman Clements. I thank you for your explanation and for the work on the Rules Committee. I will just second and agree to Senator Clements' explanation. This is formalizing and officially putting in our rules our tradition of, as we've all now gone through the prior to session meeting as our congressional district with the newly elected senators and the returning senators to select our kind of group of nominees for the 6 district spots on Executive Board and the 12 spots on Committee on Committees. I will note the language that I chose to use in this rule is actually from the language from filling the vacancies on Executive Board. So what we are not changing, but later in that Rule 1, Section 1, subsection (iv), it says if there's a vacancy on the Executive Board, it is filled under this manner. It's filled by a vote of the remaining members of the respective caucus from which the vacancy occurred. And so my thing here was copying language to fill vacancies as that described what we kind of normally do as our standard course of procedure. I know the First Congressional District caucus typically meets the first week of December after the election results are done. So with that, I do agree with Senator Clements. This is kind of a technical cleanup, just confirming our standard process and I would urge the body's adoption. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Matt Hansen and Senator Clements. Debate is now open on the proposed amendment to Rule 1, Section 1. Senator Wayne, you are recognized.

**WAYNE:** Thank you, Mr. President. Would Senator Hansen yield to a question?

**HILGERS:** Senator Matt Hansen, would you yield?

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**M. HANSEN:** Yes.

**WAYNE:** After we-- after the caucuses meet and put out their report, we as a body, typically we, we do-- typically we do, we vote on their final report. Is that considered a vote of the Exec and are we changing that?

**M. HANSEN:** So I'm not changing-- are you asking about the Committee on Committees selecting the standing committees or are you asking about--

**WAYNE:** Well, the first day after the, the Exec on their first day, there is an Exec report that, that-- for each board or each caucus that we vote on. So is that changing here?

**M. HANSEN:** No. So in my new language, it says subject to a majority vote of all members of the caucus, subject to approval of the Legislature. So there's still that first day you would have the caucus reports and the Legislature would have to confirm it.

**WAYNE:** Thank you.

**HILGERS:** Thank you, Senator Wayne, Senator Matt Hansen. Seeing no one else in the queue, Senator Clements, you're welcome to close.

**CLEMENTS:** Thank you, Mr. Speaker. I urge your green vote on this rule. I think it just is going to clarify in our rules what we've actually been doing. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Clements. Colleagues, the question before the body is whether to amend-- adopt the amendment to the permanent rules to amend Rule 1, Section 1. All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Mr. Clerk, please record.

**CLERK:** 46 ayes, 0 nays, Mr. President, on the adoption of the first amendment as proposed by the Rules Committee.

**HILGERS:** First amendment is adopted. Next amendment, Mr. Clerk.

**CLERK:** Mr. President, Senator Clements, as Chair of the Rules Committee, would report on a proposed change to Rule 7, Section 2.

**HILGERS:** Senator Clements, you're welcome to open on the proposed amendment.

**CLEMENTS:** And I'd like to-- yes. This, this next proposal, I wanted to-- forgot to say that each of these proposals from the Rules



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Committee was by unanimous vote of the committee. This rule was proposed by Speaker Hilgers regarding roll call votes. The rule says all roll call votes shall be taken in alphabetical order, starting with the first name, beginning with the letter A, except that any member may request a roll call vote in reverse alphabetical order. This-- it said unless there was an objection. This says the introducer of the motion or amendment may object to the form of the roll call, and it clarifies that the introducer of a motion or an amendment has control over the alphabetical or reverse alphabetical order of the vote. That was advanced in the Rules Committee unanimously and I would yield my time to Speaker Hilgers if he cares to clarify.

**HILGERS:** Senator Clements, I'm in the chair. I can't speak. I'm sorry, Senator Clements, are-- is that the conclusion of your opening?

**CLEMENTS:** Yes, that is. I think it was-- it clarifies the current rule that we have been using. Well, maybe it was confused in what was the purpose in our rule? And I believe this is a good-- this is a good-- all right-- clarification of how we would like to have roll call votes done and I would now use-- yield my time to Speaker Hilgers.

**WILLIAMS:** Speaker Hilgers, you're recognized.

**HILGERS:** Thank you, Mr. President. Thank you, Senator Clements. And for our new colleagues, when you're sitting in the presiding officer's chair, you can't engage in debate, so that's why I didn't-- I wasn't being rude. I just couldn't-- I couldn't have a dialogue with Senator Clements. Just very briefly, colleagues, this is an issue that came up the last couple of years on a whole variety of bills. I proposed a couple of different amendments to the rules package this year. This is the only one that made it on this particular proposal that were meant to just, just to make our process work a little bit better, take a little bit of friction out of places that might cause some tension between colleagues. I thought, you know, we ought to be here to focus on the policy and the issues before us and not have things that might make things on procedure that might make things a little bit more difficult. So we worked through a couple of different potential proposals to amend this particular rule with the Clerk's Office. This felt like the one that was the easiest one to execute. In other words, this, this proposal doesn't really change much of our current process. Our current process is that anyone can propose or yell out if they would like a, a roll call vote in a particular order. But it does allow the person with the item on the board to be able to at least have a veto, as it were, to be able to control the particular order of the roll call. So it's meant to be sort of a good process in a very, very minor change to our rules and not to really deviate from how

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we've done it, but just in a very slight way that I think will make things just maybe slightly easier in the body. I appreciate the Rules Committee advancing this on a-- on a unanimous vote and I appreciate Chair Clements' work in this particular proposal and I ask for your green light. Thank you, Mr. President.

**WILLIAMS:** Thank you, Speaker Hilgers. And thank you, Senator Clements. Senator Wayne, you're recognized.

**WAYNE:** Thank you, Mr. President. Colleagues, for many people, the rules are kind of important to me and it should be important to everybody. But I, I really like to dig into them and so I don't know if most of you know that we, we operate off of the Mason Manual. Actually, in 2010, it was actually-- there was a book dedicated our Clerk for his role in helping NCLS [SIC] adopt this. And the reason most legislatures have their rules based in Mason Manual is because it gives each individual member the ability to force the body to come to compromise. And they do it in various different ways. For example, we could not even get on the agenda if we just spend all day correcting the, the journal. It's in the rules. The reason I'm bringing all of that is because over the last-- since 1970, we started pushing rules and then we, we adopted these rules around the '80s, '85, I believe in-- in specific, but we started pushing more and more power to the Speaker as a body and it's these little changes that remove the power of the individual. And it's nothing against Speaker Hilgers. I actually talked to people on the Rules Committee and they didn't really debate this rule. But let me explain the difference and why this rule is important. As an individual introducer of a bill, I control my bill throughout the whole process. I can pull it. I can never have it on the agenda. I control even the vote. Although we always do reverse order for different reasons sometimes, I can control whether that's a reverse order or not because the rule currently says unless the introducer objects. By changing this rule, while it seems little, it actually changes the burden of who controls your bill and how the vote goes. The change actually says the introducer can object, but now that becomes the Chair's decision whether to allow you to go through with that objection or not. The word "unless" is taken out. Unless means yes, if I object, it has to stop and it goes in regular order. By changing the rule, we are now putting it back on the Chair. Now what does that do? How many times have we seen this body try to overrule the Chair? Not very often, because the Speaker inherently has a lot of power. One is scheduling, although you can file a motion to overrule the schedule. So, people, it doesn't become about your bill no more. It becomes about do you want to challenge the Speaker or whoever's in the chair? And a lot of people will not do that. So it

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actually changes who controls the vote in a major way. And there's a reason why people say reverse order. There's a reason why people say regular order. And as a bill introducer, I want to maintain that control. And let's just face it, there are times you come on here when there's a call in the house, you're looking at the bill, you're trying to remember what your position is and you do reverse order or regular order so you can line up where people you think alike are at. And it kind of helps you refresh your memory. But as the bill introducer, I control that. I'm giving that authority away. That's my fundamental problem with, with this issue or with this particular amendment. It seems small on a-- on a surface, but it says may object. That means you might be able-- you can object, but it's up to the Chair now to decide whether that reverse order stays or not. So if we want to abrogate our ability to control our vote, that's fine, but it fundamentally changes your ability to control the vote as the bill introducer or a motion on the floor.

**WILLIAMS:** One minute.

**WAYNE:** I think that's a very important distinction we have to make sure everybody in this body understands. That every time we make a small change, you have to think of why and how does that affect things. Most people probably didn't even know when we say reverse order, the bill person can object and say, no, I want regular order. Most people on the floor didn't even know that. Most people on the floor don't know that we can offer amendments on this right now to maybe make it better because we don't have in-depth discussions about rules. But this is one example of where we are changing who controls how the vote goes and think of how many times we've picked reverse order for a variety of reasons. And we're changing that ability and now it's going to become me or the introducer versus the Chair, not about the bill and who controls it.

**WILLIAMS:** Thank you, Senator Wayne. Senator Wayne, you're next in the queue. You may continue.

**WAYNE:** Will Speaker Hilgers yield to a question?

**WILLIAMS:** Speaker Hilgers, would you yield?

**HILGERS:** Absolutely.

**WAYNE:** This is a very open-ended question. Did what I say just make sense?

**HILGERS:** Could I take one minute and ex--

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**WAYNE:** We got five so.

**HILGERS:** Thank you. Thank you, Senator Wayne. I appreciate the dialogue on this. So I forgot in my opening when we were discussing this in the Rules Committee, Senator Wayne, it actually-- we looked at the, the rule as it was, as it currently is. And as we actually dialogued with the Clerk and looked at it again, the rule arguably gave the right actually as, as it currently stands for us to be able to do what I'm trying to do, which is give the, what you describe, which is give the power to the introducer. What this-- the amendment really was to clarify that and confirm that and put a little bit of a spotlight on the body because the body and I think-- I don't want to speak for the Clerk-- but there was a feeling that the rule, as currently drafted, did not maybe invite people to use-- the introducer to use their power to object. So the intent of this, Senator Wayne, is to do exactly what you said. It's not intended-- it's intended to clarify really our current authority under the rule and to make sure that we have that authority. It is not intended to weaken it. Now to your question, whether or not, whether or not your objection made sense, I was just talking about this with Senator DeBoer. I didn't quite see how it weakened it. Certainly that's not my intent at all and I'm happy to lay down any legislative history on this. It's really to ensure that the introducer has the power to do exactly what you said, because I do agree with everything in substance of what you said. That's not the intent of this language.

**WAYNE:** Thank you. So if-- let's play this scenario out and you were in the chair. If I object, who makes that determination at that point?

**HILGERS:** I don't think there-- if you object, you object. So if you say you object and-- as long as you're the introducer, I think the only-- the presiding officer, as far as this language reads to me, can only determine whether or not you-- whether the objection is from the introducer or not. There's no discretion to overrule the objection, to weigh in on the objection. The introducer of the motion or amendment can object. As far as I'm concerned, if they object, they object and there's nothing-- there's no discretion beyond that.

**WAYNE:** You would agree that the word "unless" means if-- if I object, there is no discretion. By removing that and say may object to the form of the roll call gives you discretion in the chair, correct?

**HILGERS:** I think it gives the discretion-- I think it's another way of saying the same thing. I think it gives the-- the introducer and it does clarify or of the motion or amendment, which is the thing that's

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under consideration on the board. I think it's another way of saying the same thing.

**WAYNE:** Thank you, Speaker Hilgers. I disa-- I don't adamantly disagree with that, but I do disagree with the sense the word "unless" means exactly what it means. If I object, there's no discretion. It's clearly in the rule "unless." If I object, if we adopt this amendment, it is questionable whether the Chair can say yes or no. And if he says yes or no or she says yes or no, you have to file a motion to overrule the Chair. That is a process in and of itself. You only get to speak one time. You have to get people to raise their hand or say they want-- they also object. And it's a one-time, you get your one shot on the mike and that's it. That is a fundamental difference than me saying that's a process. We, we are now creating a process. Because if he says or she says, I agree with the Speaker that he says we're trying to do the same thing, but that doesn't stop Senator Wishart from saying, no, I overrule the Speaker. So it's the opposite too. Anybody can say, I overrule the Speaker. Now guess what? We can spend all day on roll call votes and overruling the Speaker versus having a clear rule that says, if I object, you can't do it. And for somebody like me who oftentimes like to filibuster sometimes--

**WILLIAMS:** One minute.

**WAYNE:** --that's a lot of debate on overruling the Speaker just on a up or down whether we're going to go roll call or not. I think this will create more opportunities for people to filibuster, more opportunities for people to delay, and it provides less power for the introducer. So I hope somebody pushed their button because I'm going to take mine off and ask me some questions if you want to think about it, but "unless" is clear. You have the right and the ability to control as an individual member. "May object" changes that burden to the President or the Speaker. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Wayne and Speaker Hilgers. Speaker Hilgers, you're recognized.

**HILGERS:** Thank you, Mr. President. Good morning, colleagues. Just briefly, I think I hit my button just to describe a little bit of the rationale and the discussion in the Rules Committee that this is not intended to change the current process. I understand the point that Senator Wayne is making. I don't necessarily agree that it follows from the language as I read it, but I understand he's reading it a different way. So what I would propose is to adopt this amendment and I will work with Senator Wayne now under the-- under the balcony and see if we can tweak this a little bit to address this concern.

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Ultimately, I think what Senator Wayne and I are to saying are the exact same thing. We have a slight disagreement over-- over the potential implications of the language. I certainly want to make sure that Senator Wayne is comfortable with what we're doing here because I'm not intending to change or water down any of the rights of the introducer. So I won't have anything more to say on this unless anyone else has a question for me. But I'd ask for your green vote if there's no further debate and then I'll work with Senator Wayne right now and we may can-- may have time to, to do a slight amendment. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Hilgers. Senator Matt Hansen, you're recognized.

**M. HANSEN:** Thank you, Mr. President. And thank you, members of the body. Good morning. I did want to rise and kind of give some context as a Rules Committee member on this rule. This disagreement with interpretation was not a surprise to me. Multiple members kind of asked me what this rule was intended to do and what this rule ultimately did. And I've got-- I think I agree with Senator Hilgers' interpretations, but I also view Senator Wayne's concerns about the interpretation as valid. Fundamentally, as I understand the kind of the history proposed behind this rule change is for some of you it's old hat. For some of you, it's new. You, you will experience this soon, but especially kind of at the end of a day, maybe a long session, maybe it's a filibuster or contentious vote, people are out of the Chamber. You have a series of motions you have to go through. You have to go through call of the house. You have to go potentially-- go through a roll call and a series of different things. And at that time, depending on who's interested or who's engaged or who wants to do what, you might have multiple members shouting out to the Chair, to the Clerk, a variety of different things. And I think the goal here is when the presiding officer hears roll call, two people yell roll call, one person yells roll call reverse order. Everybody understands how that split gets decided. Right now, kind of as I understand our tradition, it's been the first voice that is heard. In theory, the introducer had the ability. And when I say introducer, I'm referring to the introducer of the motion or amendment that's being voted upon had the ability to object. That's not something I've personally seen in my tenure and so I think that maybe a Chair in the past has heard multiple voices and deferred to the one he recognized as the introducer of the motion, but that is the intent here. In my mind, it was not viewed as a very significant change. It was kind of clarifying a potentially existing procedure, an existing motion. And it was intent to be brought forward with some issue and avenue of civility,

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trying to make our process smoother, run smoother, run better, and move forward. Kind of in that I'd like to continue and thank my fellow members of the Rules Committee, thank Chairman Clements. These three rules changes, the one we've already adopted, this one, and I believe Senator Albrecht's is the next one, all did come out unanimous. That was something we really looked at as a Rules Committee this year. It was requested of us to kind of signify and recognize which rules really had the consensus of the Rules Committee and hopefully then could achieve consensus in the body. So with that, I think I would-- do want to hang out a little bit longer because I see discussions are happening in front of me. With that, I will say one important change in this rule is clarifying, is clarifying that this applies to motions and amendments. As you could see in the original rule, this applies to the introducer of a motion and I think adding the language amendment and clarifying that this could come up at any roll call vote is an important detail. [INAUDIBLE] that, I would ask Senator Wayne if he would yield to a question.

**WILLIAMS:** Senator Wayne, would you yield?

**WAYNE:** Yes.

**M. HANSEN:** Senator Wayne, I've been talking for a while. Do you need me to still to keep talking?

**WAYNE:** Sure. Yes, we do, actually.

**M. HANSEN:** All right.

**WAYNE:** But I mean, I can take over if you want me to.

**M. HANSEN:** I'll, I'll finish my time.

**WAYNE:** OK.

**M. HANSEN:** But if somebody else gets a light on--

**WAYNE:** Sounds good.

**M. HANSEN:** Thank you, Senator Wayne. All right. So, colleagues, you might be picking up on it. Occasionally this happens where hopefully in the spirit of collegiality and compromise--

**WILLIAMS:** One minute.

**M. HANSEN:** --and good, good fortune, when an amendment is being discussed or about to be dropped or about to be drafted, occasionally



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somebody will take a little bit of extra time at the microphone to make sure that that discussion can happen under the balconies, up at the dais by the Clerk. And that was my intent with my five minutes here. My five minutes are wrapping up, so I would thank the body for their time and attention. And thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Matt Hansen and Senator Wayne. Senator Clements, you're recognized.

**CLEMENTS:** Thank you, Mr. President. I wanted to put on the record how I interpreted this as I voted for this rule. I did not intend that the Speaker would be ruling on this, any objection to the form of the roll call. And I do appreciate Senator Wayne. He may be correct in his interpretation that it could cause a problem and it certainly would be open to a-- an amendment to the wording that would solve this issue. I see that it's, you know, it's saying that the introducer may object to the form. Maybe we should say the introducer shall control the form of the roll call or if they have drafted some language that would be more specific and clear, I would accept a clarification on that. But I do want to put on the record that I had in my-- my vote, no intention to turn this decision over to the Speaker or the presiding officer and that the introducer would have control with-- without overruling from the Chair. And so I just appreciate though Senator Wayne. That's why he is a lawyer. He's good at words and I will-- I think I'll leave it with that. I just wanted to make it clear that there was no intention to have the presiding officer make a ruling on this procedure. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Clements. Senator DeBoer, you're recognized.

**DeBOER:** Thank you, Mr. President. I also wanted to rise to talk about this rule. It looks like there's potentially an amendment available, but it was the intent of the committee to keep the rule the same. But this is one example where there are a number of rules in our Rule Book that we don't always recognize or actively practice in this body, some little nuances. This would be an example where the person whose motion or amendment it is has the ability to control or at least override a request to have a reverse order vote. And here we may not have realized that. I did not realize that you had the, the power to object. So sometimes in our Rule Book, we have those abilities and powers that are not quite so clear. Our attempt as a Rules Committee was to make that a bit more clear so that folks would understand that. And I think perhaps an amendment is ready that will speak to all of those things and get the intent of the Rules Committee here. So with that, I thank you, Mr. President.

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**WILLIAMS:** Thank you, Senator DeBoer. Mr. Clerk, you have an amendment.

**CLERK:** I believe I do, Mr. President, and let me read it to the body. So the proposed rule amendment is to amend the proposal we're on, and if you look at the language, we are reins-- reinserting the word "unless." We are reinserting the word "objects," which is currently stricken through and striking the words "may object." So the rule will read, if I may: All roll call votes of the comprised membership shall be taken in alphabetical order, starting with the first name that begins with the letter A or the letter closest to A except that any member may request a roll call vote in reverse order unless the introducer of the motion or amendment under consideration objects to the form of the roll call. That's the proposed rule change. Senator Wayne, I-- you got your copy, I hope, of that change. OK, good. Thank you.

**WILLIAMS:** Thank you, Mr. Clerk. Speaker Hilgers, you're recognized to open on your amendment to the amendment.

**HILGERS:** Thank you, Mr. President. And thank you, Senator Wayne, for the discussion. So we just spoke off the mike here and what-- went through the amendment. And so I think really the objection boils down to the, the striking of the word "unless" and replacing it with "may object." So unless objects versus may object. And the question is whether or not that has an implication for whether that gives discretion to the presiding officer that the presiding officer does not currently have. I think that's ultimately the dispute. That is certainly not the intent and that's not necessarily how, how I read it. That being said, Senator Wayne and I have agreed on an amendment and this is his language, which is what the Clerk just read, which essentially substitute back in the "unless" and takes out the "may object." And then the second objects that if you have the version that Senator Clements sent around of my amendment, proposed rule change two that has objects, it's-- that is reinstated as well. So I think this addresses Senator Wayne's concern. I'll yield him my time just to make sure that that's right. If so, I would ask for your green light on the underlying amendment, the amendment to the amendment, and then a green light on proposed amendment 2. I yield my time to Senator Wayne.

**WILLIAMS:** Senator Wayne, you're yielded 8:52.

**WAYNE:** Thank you, Mr. Speaker-- Speaker Hilgers. Thank you, Mr. President. I do think this amendment is really-- amendment is really good. And this also points out one, I I really didn't look at the rules until late last night and the proposals, but more importantly, the word amendment does matter because there is a difference between

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motions and amendments. So I didn't tell everybody to vote red on it when I first started speaking was because I had to figure out the word amendment does matter. So we had to keep that part. And I do agree with Senator or Speaker Hilgers that this is important, that we should make sure we clarify. And I think this agreement does and now keep in the word amendment does-- does matter a lot. And, and specifically objecting to the form I think is important which Speaker Hilgers was trying to put in because it does matter to what objections we make during any vote and there's reasons for that. There are certain votes you can just object for-- just to object in a general sense, but there are specific objections you can make on any vote. And so I think by saying object to form is very, very important when we start talking about records and, and transcribing and things that we do on this floor. So I do agree with the majority of the original proposal. I do thank Senator or Speaker Hilgers for this amendment and I would ask people to vote green on the underlining and green on the main motion. Thank you.

**WILLIAMS:** Thank you, Senator Wayne and Speaker Hilgers. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Mr. President. Good morning. As you have been instructed by Senator Clements, I serve on the Rules Committee, have done that for a couple of years prior to this. I have read the Rule Book several times. This last summer, I spent quite a bit of time researching and looking through the rules. And if you have a Rule Book in front of you, I would want to call your attention to page 13 about-- maybe a little past halfway down. There is a comment written in italics and it says this: Model Committee Rules-Appendix A on file at the Clerk's Office. I read the Rule Book several times before and I never, ever ask to see that Appendix A. So this year when I was reviewing the rules, I decided perhaps I need to look at all the rules. And I sent a message to the Clerk's Office and they quickly responded with Appendix A and I appreciate it. So what I'm saying is, if you haven't read Appendix A, please request a copy of it and read it. It talks about how the committees are supposed to be functioned and what they're supposed to do. And so that was good information, I think, that everyone should look at. I also seen when I was reviewing the rules, the comment-- the rule that we're commenting on this morning about the objection to reverse order or alphabetical order and regular order. I seen that. And we had a discussion in the Rules Committee about Senator Hilgers' amendment. And until this year, I did not know that it was up to the introducer of the bill that they could object. So I seen that and I appreciated it. I think Senator Hansen said, said it correctly when he said, I agree that this rule doesn't

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take away authority from the introducer. It reminds me a bit and some of you may remember this, in 2017 we had a discussion about the rules. It only took us 30 days to settle the rules. That's all, just 30 days. And the reason it did is we talked about things like this for the majority of that time. And so I'm not interested in going down that same road again. This was an amendment that should have come up there. Senator Clements gave his opening. Senator Hilgers said what it does and we should have voted. But if we want to drag this out and make it look like it did in '17, then that's OK with me, I guess. Because I said in '17, the most safe place for Nebraskans to be is when we're not in session because we're not spending their money. And so if we spend our time talking about the rules, that's less time we can talk about spending our money. So I'm not necessarily in favor of the amendment. I am in favor of the rule change as it was presented. And so just keep in mind where we're going here. And the question is the definition of "unless" or whatever words we want to put in there to strengthen it to take authority away from the Speaker. And I don't believe that was the rule change intent at all. Thank you.

**WILLIAMS:** Thank you, Senator Erdman. Senator Groene, you're recognized.

**GROENE:** Thank you, Mr. President. As I said to my constituents, my goal these next two years to be collegial to them. They are the ones I represent. And a lot of you are probably scratching your head out there in Nebraska saying, what's this all about? What difference does it make how you go from Z or you start from A? It's a political ploy. You look at the board and if it's weighted to your side, you try to reverse the order because momentum builds in the minds of the-- of the-- if the votes start leading ten to one, eight to four, it puts pressure on the people on the back side. It's a political ploy. That's why you do it. You might have an individual that's weak, that his beliefs are not what he told his constituents. So you try to help him out. You start from the reverse order so that if we get to 33 before he has to vote, he can vote with his constituents. If you start from the other way and he has to make his mind because he's the tenth vote, he's got a problem because he's got a lot of pressure from fellow senators who think like he does, even though his constituents don't. That's what this is all about. It's a political ploy. Is it a good one? I don't really care. But that's the purpose of it, has nothing to do with good government. It has to do with politics. Now, if you're Senator Aguilar, you're darn glad you're not first all the time, that the pressure is off him to vote first. Maybe we ought to just rotate down the line. One vote it's Aguilar, the next one's Albrecht starts. That might be a little better, but this is all politics. The problem

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with it is now, excuse me, I'm too close to the mike, is that when you're the introducer of a bill or an amendment, you are busy. You have a lot of things going on and some senator in the back of the room just been watching can yell out reverse order in you're off on the side, trying to talk to your staff or talk to another senator, and it goes by and you didn't get a chance to object. That happens all the time. I'd walk up to a senator and say, why didn't you object to that? Well, I was off over here. I was over here. I was trying to do good government. This whole thing's politics. Thank you.

**WILLIAMS:** Thank you, Senator Groene. Senator Clements, you're recognized.

**CLEMENTS:** Thank you, Mr. President. I rise to agree with this amendment and I also wanted to-- I was glad that Senator Wayne pointed out that we're adding the word "amendment." That this can be-- it's clarifying that a motion or an amendment can be called out in alphabetical order or reverse. And the way I'm seeing this, it changes the "may object" language to "unless the introducer objects," which does give the introducer the control without-- without overruling from the Chair. And so I see this as a friendly amendment and I will vote green and urge you to vote green on the amendment to the rule. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Clements. Seeing no one in the queue, Senator Hilgers-- Speaker Hilgers, you're recognized to close on your amendment to the committee amendment. Speaker Hilgers waives closing. The question, members, is the adoption of the amendment to the committee amendment. All those in favor vote aye; those opposed vote nay. Have all voted? Record, Mr. Clerk.

**CLERK:** 46 ayes, 2 nays, Mr. President, on the adoption of the amendment to the committee amendment.

**WILLIAMS:** The amendment to the committee amendment is adopted. We return to debate on the committee amendment. Seeing no one in the queue, Senator Clements, you're recognized to close on the committee amendment.

**CLEMENTS:** Thank you, everyone, for your consideration and your patience as we work out these words in the rule. Rules are important. And I believe that this has been clarified so that we understand how the procedure will be on roll call votes. And I urge your green vote on the amendment, on the rule as amended. Thank you, Mr. President.

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**WILLIAMS:** Thank you, Senator Clements. Members, the motion is the adoption of the committee amendment. All those in favor vote aye; those opposed vote nay. Have all voted? Record, Mr. Clerk.

**CLERK:** 49 ayes, 0 nays, Mr. President, on the adoption of committee amendment number 2.

**WILLIAMS:** Committee amendment number 2 is adopted. Mr. Clerk.

**CLERK:** Mr. President, the Rules Committee would offer an amendment to Rule 7, Section 1.

**WILLIAMS:** Senator Clements, you're recognized to open on the committee rule.

**CLEMENTS:** Thank you, Mr. President. This is the third item that came out of the Rules Committee report. This rule was unanimously voted out by the committee. It's proposed by Senator Joni Albrecht and it's regarding Rule 7, the proceedings and the order of business of the Legislature daily. The order of business has been prayer by the chaplain, followed by the roll call, and the rest of our day. This would insert the Pledge of Allegiance, followed immediately after the prayer by the chaplain as the order of business. And as I said, it was unanimous by our committee to make this change to the Legislature's daily order of business. And I urge your green vote. I would yield the rest of my time to Senator Albrecht if she would like it.

**WILLIAMS:** Senator Albrecht, you're yielded 8:58.

**ALBRECHT:** Thank you, Mr. President. Thank you, Chairman Clements, on this particular issue. I am very grateful to the Rules Committee for finding the Pledge of Allegiance to be a priority this year. Thank you to Chairman Clements, to Speaker Hilgers for being there, and members of the Rules Committee. I'd also like to thank the legislators who rose to the occasion the last two years and made the Pledge of Allegiance a priority before we started each day. A special thanks to Beverly Neel in my office for coordinating with the efforts and also with the Speaker and the Clerk for recognizing the importance. District 17's legislator before me was Senator Dave Bloomfield. He sought to uphold the honor of our country by initiating a resolution for this particular issue and was certainly not something that was able to be passed at that time. So I do appreciate all the energy that's been put into this particular rule. And again, out of the 21 rules that were discussed, only 3 were brought out of the committee. Again, I appreciate all of their efforts to bring this to the floor. I hope that you'll each strongly consider adding this rule to ensure

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that the Pledge of Allegiance is said each day. And I thank you and ask for your green vote.

**HILGERS:** Thank you, Senator Albrecht and Senator Clements. Senator Albrecht, you're next in the queue. Senator Albrecht waives the opportunity. Debate is open-- is now open on proposed amendment, amendment number three. Seeing no one in the queue, Senator Clements, you're welcome to close.

**CLEMENTS:** Thank you, Mr. President. I appreciate Senator Albrecht and thank her for bringing this proposed rule. And we were unanimous in our committee vote. I believe we had no testifiers in opposition. And I would urge your green vote on this proposed rule change. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Clements. The question before the body is whether to adopt proposed rule three to Rule 7, Section 1. All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk.

**CLERK:** 47 ayes, 0 nays on the adoption of the Rules Committee amendment proposal number three, Mr. President.

**HILGERS:** Committee proposed amendment number three is adopted. Next item, Mr. Clerk.

**CLERK:** Mr. President, that completes the Rules Committee package. Senator Halloran would move to amend the permanent rules with changes to Rule 1-- Rule 1 and Rule 3, Sections 1, 8, and I guess that's it. I believe, Senator, you distributed copies to the membership, right? Yeah. Thank you.

**HILGERS:** Thank you, Mr. Clerk. Senator Halloran, you are recognized to open on your amendment.

**HALLORAN:** Thank you, Mr. Speaker. Good morning, colleagues. Good morning, Nebraska's second house. This morning I am proposing an amendment to our Legislature's permanent rules. Colleagues, I have provided you with a copy of the rule change, which will change our nomination and voting procedures from a secret ballot to a viva voce or voice vote for the following officers: Speaker, Chairperson of the Executive Board, Vice-- Vice Chairperson of the Executive Board, six members of the Executive Board, and Chairpersons of each standing and select committee, Chairpersons of special committees. Colleagues, for 50 years since 1970, secret ballot voting for these positions has been in violation of Article III, Section 11 of Nebraska's state



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Constitution, which calls for the yeas and nays of the members of the desire of any one of them to be entered into the Journal. Colleagues, at the beginning of each of our terms in office, we each took a solemn official oath to support the Constitution of the United States and the Constitution of Nebraska. This amendment will align our nominating and voting rules with our oath to uphold our state constitution. All of our actions as state legislators should be transparent. Our Constitution demands transparency. Our constituents expect, and more importantly, they deserve transparency. I know many of you have received emails, and I have as well, from all over the state, and these aren't copy and paste requests for us to do something. These are all individual words from individual constituents who are asking for us, asking for us to have transparency. Our current methodology for electing legislative officers and committee chairs by secret ballot is not transparent. Transparency breeds trust. Secrecy breeds mistrust. I and our fellow Nebraskans look forward to an open and transparent floor discussion and debate on this important issue. I will be very interested in hearing the arguments for and against transparency. The arguments defending secrecy will be particularly interesting. The second house will be watching the vote on this rule change very closely. A vote for this rule change will be a vote for transparency. A vote against this rule change will be a vote for secrecy and will be a vote to continue our violation of the state constitution. Thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Halloran. Debate is now open on the proposed amendment. Senator Flood, you are recognized.

**FLOOD:** Thank you, Mr. President, members. I didn't anticipate speaking this early on in the session, but I am 100 percent opposed to Senator Halloran's rule proposal. And I think if you're going to consider it, let's understand what we're doing here. This proposal is less about transparency and it is absolutely about dismantling this Unicameral in my opinion. Every action has a reaction. Every single action we take here has a reaction. Sure, you start with public votes for leadership. The forces of partisanship, which were rejected by the voters in 1934, are back. Suddenly you have a minority and you have a majority. Suddenly you have a majority leader and you have a minority leader. And guess what, fellow Republicans? All of the Democrats then get together because they aren't on committees anymore. Steve Lathrop's not walking up the stairs with a plan to fix Corrections. He's walking up the stairs to see how many bombs can he throw so that all the rest of the Republicans don't get what they need this year. And suddenly the Republicans start having the same deal. I'm a brand new state senator. I come from Norfolk. There's a majority leader, there's a

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whip, there's everything else. Do I have the chance to fix problems at my regional center on day one? No, I do not. I have to go through the leadership chain. And you're right, Senator Wayne. The Speaker's position has gotten more powerful and the power of the individual is eroded with something like this. Public votes to contribute to more of a hyper-partisan approach that dismisses the minority. I mentioned it briefly. Senator Bostar comes to work. He's already the only Democrat on the entire Revenue Committee. He-- he nail-- he-- he made somebody mad. He ended up on both of the most Republican committees in the place. But that becomes the norm for everybody. And trust me, I've seen this play out before. I'm a Republican. You know, if I do the math, it works out great, but what happens when it's not about Republicans or Democrats anymore, it's about urban and rural? Rural loses two more seats this year. Suddenly the urban senators decide we're absolutely not going to send one dime to Norfolk or Madison. They organize. Everything has a reaction. You do this, there's going to be a reaction. Do the math. Do the math. The math is never going to be on your side because it's always going to turn. In 20 years, this place could be full of Democrats and we'll be on the other side and we'll rue the day that we did this. The other thing that I want to talk about is what is the most honest? What is the most honest? Being elected by your colleagues on a secret ballot or being elected on a public ballot? If we want to elect the best people, the best people to run the committees, you have to be willing to have a secret ballot. And in most cases, transparency, absolutely. I get it. It's a great argument and it is very much in favor of the folks that want this rule change. But let's step back for a second. If this were a bicameral, absolutely. But we didn't inherit a bicameral. We inherited a Unicameral and if it's going to work the way it was intended, you can't do things like this. And a lot of people stood up on the first day and asked for my vote as a committee chair and I took great notes. And the things they said were, I'm for the institution. I'm for making this place run. I'm going to protect the institution against all foes. They stood up and they grabbed what everybody wanted to say. This is the Unicameral and we're going to make it keep working. But if you vote today to go the other way, you're not voting for the institution. You're voting to change this to something that's partisan. You're voting to change this to majority and minority. And people like me that have discounted ideas on an issue like this--

**HILGERS:** One minute.

**FLOOD:** --don't suddenly get to speak. It all falls apart. And I know Senator Groene and I are going to be on opposite sides of this issue. And I want to explore and understand Senator Halloran's reference to

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Article III in the state constitution as it relates to public votes. I think that's something that courts may weigh in before we do, but it's going to be an interesting discussion. But I'm saying I'm present on behalf of the people of Madison and Stanton County. I say no. I think this is a bad idea. And if we want to go down this road and you vote for it and it passes, things will change and not for the better. And wait for the day that you're not in the majority and wait for the day that you're in rural Nebraska and you lose again because we are losing people, we are losing seats, and we will lose funding. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Flood. Senator Kolterman, you are recognized.

**KOLTERMAN:** Thank you, colleagues. I appreciate that. I won't be quite as articulate as the good senator that just talked for Madison County, but I'm going to bring a little perspective to this myself. Back in February of 2011, I read an article or I was reference-- I'll reference an article that was written by CSG. It was written in 2011 and it talked about a legislative branch like no other. The Nebraska Unicameral remains a unique part of the nation's political system. We have a single chamber like no other chamber in the United States of America. Some history behind this tells us it took 20 years to accomplish and implement what we have today. In 1934, Nebraskans voted to amend the state constitution and it was driven by an individual by the name of George Norris, for whom this Chamber is named. It was reorganized in 1935 and first met in 1937. Again, we are the only nonpartisan body in the United States. Now I've received over 100 emails regarding this situation and my vote on this-- my position on this. A hundred emails is quite a few since this just started coming up last weekend. Only three of those were from, from constituents. All of them tell me I have a constitutional obligation to vote yes on this motion. I, like Senator Flood, would like to have that explored a little bit more and have somebody explain to me what that constitutional-- how I'm-- how I'm violating my constitutional obligation. To me, this is more about who I have a relationship with, who is the best qualified person to lead a committee. It shouldn't be about being a Republican and it shouldn't be about being a Democrat. It should be about who has the best qualifications to lead. I have 36,000, right at 36,000 constituents in District 24. I'm telling you, out of that 36,000, about 70 percent of them are Republican. But I didn't take an oath to represent Republicans in this body. I took an oath to represent the people of my district, so those other 30 percent need to have a-- have a voice here as well. If we adopt this rule, I believe we'll get undue pressure from the public who should lead our--

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who should lead our committees? Who should be in charge of our committees? I already heard that this year. I've been a Republican for over 50 years. That's longer than many of you have been alive. But because I think independently, a lot of people like to call me a RINO. People in this body have called me a RINO. And they put an F in front of that because they said that to me. If that's what we want here, if we want to be Republicans and Democrats and we're going to fight each other based on who has the most votes and if we're going to get undue pressure from our parties, that is the wrong thing we should do. George Norris and the people of this state changed that in the 1930s. I believe we have an obligation to keep that going. It has served us well. The people in this nation look at us and envy us. And to do this to make a change would be the wrong thing to do. So I'm anxious to listen to this debate, but I'm going to tell you, I will vote against all of these amendments. And I appreciate the fact that I'm a-- I'm a Republican, but I'm going to vote against this. And I'm proud to be a Nebraskan. And I elect people for whom I believe--

**HILGERS:** One minute.

**KOLTERMAN:** --can do the best job. Thank you very much.

**HILGERS:** Thank you, Senator Kolterman. Senator Williams, you're recognized.

**WILLIAMS:** Thank you, Mr. President, and good morning, colleagues. I want you all to know how proud I am to be a member of this body and how proud I am that this body is nonpartisan and how important this body is to the state of Nebraska, the legislative body, the first department of government, the independent party, the independent group that takes care of creating public policy for everyone in this state. As Senator Kolterman mentioned, clear back 85 years ago, this body became a Unicameral. And in addition to becoming a Unicameral, it also made the clear decision that it would not recognize political party affiliation. It would not recognize political party affiliation, clearly becoming nonpartisan. You can use transparency to disguise lots of arguments. Earlier, someone got up on the mike when we were talking and debating another rule change and said this is all political. I'm telling you, this is motivated by politics, not by doing what's right. And that's our choice whenever we're standing in this body getting ready to push that red or green button, which isn't always easy to do, especially as you new members recognize that as we go forward. But we don't make public policy because it's easy. We don't make it because it's popular. We make it because it's right. And this rule has worked and it has worked effectively for all these years. When I think about voting, when I vote for the Speaker of this

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body, for committee chairs, I want to be sure that I'm voting for the person that is most qualified. I'm going to look at those qualifications. I'm going to hopefully have an opportunity to visit with those people about issues that may come before that committee that I think are important. I want to know about their experience. I want to know about their industry experience in looking at those kind of things. The last question I'm ever going to ask, and I hope you would ask-- not ask, is whether they have an R or a D behind their name. That doesn't make them a better leader. That doesn't make them more knowledgeable about the topics. That doesn't make them put themselves in a position of being fair. Folks, this is all about partisanship. Partisanship takes us nowhere. That's why we had 30 days of rule debates in 197-- or 2017. None of us in here need to be controlled by any of the political parties. We're independent. We listen to our constituents. And at the end of the day, we do what right. We are an independent, nonpartisan body and I'm going to vote to keep it that way. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Williams. Senator Morfeld, you're recognized.

**MORFELD:** Thank you, Mr. Speaker. Colleagues, I rise in opposition to the proposed rules change, and I think that my three colleagues before me put it very articulately. I always try to look to what is the intent of certain policies, certain constitutional amendments, certain parts of the Constitution. I look to what is the context behind the intent of that language. I also look to what are we trying to achieve when we're changing the rules. People will say transparency, but how does transparency, when it comes to leadership elections, promote the public interest? The answer to that question is it does not. It does not because it only will further partisanship, tribalism. It will only create incentives that are not healthy to the governance of our state or the governance of this body. I think all of us-- and for the new senators here, once we start traveling again, you'll go to other states and people will stop you after talking to you for a minute and go, wait a minute, you're from Nebraska? Isn't that a Unicameral? Tell me a little bit about that. And when I tell them about the unique nature of our body, whether they are a Republican, a Democrat, or anything in between or outside, the number one thing that they talk about isn't necessarily that we're a one-house Legislature. It's that we have secret ballot leadership elections, it's that we do not caucus by party, and that each individual senator is individually powerful and can represent their district without having to answer to leadership, without having to worry about the person that fundraises the best, who happens to be the majority whip or the minority whip,

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whether or not that bill that they introduce is in line. That is what makes our body unique and special. It's not necessarily that we're one house. It's that we have not only nonpartisanship in form, but also substance. These rules are critical to that substance. They create the incentives for us to be able to operate in a nonpartisan way because I can guarantee you I won't be here in two years. But if I was here in two years, I can guarantee you what you don't want to have happen if you're a Republican is to have the Democratic Party or activists that I listen to and that I care about coming to me saying don't vote for leadership for that Republican because of X, Y, or Z issue that they voted on years ago. You want to be able to come up to me and say, Adam, I am the most able-bodied person to fulfill this role because I've worked with you, because you can trust me, and I treat others with dignity and respect. And we may disagree on a bunch of issues. And in fact, your constituents may disagree strongly with me, but you know me and you know that I'm fair. That's the kind of conversation you want to have with me and other colleagues in this body, whether they're Democratic or Republican--

**HILGERS:** One minute.

**MORFELD:** --or, or whatever the case may be. So we have to step back and look at what is the public interest that this rule change is advancing? It is not changing anything that is in the interests of the public. It is making it so that outside people and folks on the inside, in some cases, can more easily control leadership elections. The Nebraska Legislature, and I've done the research, the Nebraska Legislature is one of the most transparent legislatures in the entire country. We are transparent. This rule change does not promote the public interest and it does not promote transparency in the furtherance of the public interest. I urge you to vote against it. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Morfeld. Senator Groene, you are recognized.

**GROENE:** Thank you, Mr. President. That this is even an issue has always amazed me. I've fought my entire life [INAUDIBLE] taxpayers [INAUDIBLE] transparency and accountability in government. Because behind it hides corruption, partisanship, gang mentality, and let's get this guy. That's what secrecy does. I have never received in six years going on seven the amount of emails I have received on this issue. In fact, throughout those years, the number one issue has been property taxes; number two has been the secret votes that has disturbed my constituents. You can talk about partisanship all you want, but it exists. If you want to dream it doesn't exist here, you

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go right ahead. But out there in Nebraska, it exists. People identify them by a political party and a thought-- and a certain political thought. They want to know. They don't have time to follow every issue. They know, all right, this guy I voted for. I didn't know much about him. He was this. And tell me, when you go door to door that they don't ask what party you belong to. They do. But this has nothing to do with partisanship. I heard from Senator Kolterman about Senator Norris and the-- his 1934 initiative change the amendment-- to change the constitution. Let me tell you what it says here, folks. Let me tell you what it says. Part of that wording that change your constitution said this: The request from any one member to be sufficient to secure a roll call on any question. That comes from Mr. Norris. He was a mature individual. He also said it shouldn't be partisan, but he expected us to be adults. He expected us to stand up and stand by our word and vote. Joe, I'm going to vote for you. Susie, I'm not going to vote for you, not to lie to them. And you know the lies happen. Not the 30 days before this session, the secret groups that get together and plot and scheme and trade votes and trade chairmanships. Folks, every two years there is a slate. There is the slate. I used to call them Rockefeller Republicans, but they're really-- in Nebraska, they're the country club ones. They always are the swing votes between the liberals and the conservatives. They get their Chairs and then they look down and say, we'll give this one to the Democrat and this one to the Republican. That stops. That stops with a vocal vote, with a recorded vote. Our constitution says every single issue must have a vocal vote, a vote that is able to be recorded by the request of any member, any vote. This secret vote causes more grief and hard feelings between senators than anything else that happens in this body. I'll tell you what, on my Chair vote, some senators, I asked them, you going to vote for me? And they said, no. I'm not mad at them. But when you have--

**HILGERS:** One minute.

**GROENE:** --25 or 26 people say they're going to vote for you and you get 24 votes, you start wondering who can you trust. Who can the public trust? You can't trust them, folks. You're going to watch this vote today and you're going to know how they feel about secrecy. They might be running for Governor. They might be running for county attorney. Folks, pay attention. Because if you can justify this secret vote, you can justify anything that you deem the public shouldn't know. It's for their good. It is not for their good. They're all adults out there, folks. They want to know how you vote on every single issue. We didn't join a country club here. We didn't join a country club. We were sent here by our constituents as members to



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represent them. There is no rules of collegiality that says if you don't use the right fork--

**HILGERS:** Time, Senator.

**GROENE:** --when you eat your salad, that you're out of here.

**HILGERS:** Time, Senator. Thank you, Senator Groene. Senator Pansing Brooks, you are recognized.

**PANSING BROOKS:** Thank you, Mr. Speaker. Good morning, Nebraskans. It's time for our country to heal. That most happens from the inside out. It will only happen with love and forgiveness. I ask forgiveness from those whom I have wronged. I also ask that we show love and compassion and forgiveness to each other. Our Unicameral is unique and a special place in the middle of our country. Let's work together to heal our country, to bolster love. That doesn't mean we can't disagree, but we must do it with humanity and grace. If not love, what remains? If not each of us, then who else? We can help lead and heal our country from the inside out. From the center of our country, we can center the soul of America. So I'm standing today, Nebraska, to talk about the secret ballot. I rise in opposition to the amendment to the permanent, permanent rules. I appreciate some of the comments that have been made so far. In 2019, I received a very comprehensive letter and historical summary from Mr. Nathan Leach, who has researched our Legislature and Unicameral and knows the history. One of the things that he did was create a graph which showed our history of the vote, and I have passed that out to you today. The Unicameral was to have a ballot vote when electing from the floor. From day one, the experiment was-- was created that way. Senator Halloran brought up a constitutional argument. And I would like to politely argue with his understanding because what he did was mention Article III, Section 11, which also says, except if there's a secret vote. But-- but if you look at the section immediately before Section 11, so it's Article III, Section 10, it provides that the Legislature has a distinctly separate constitutional right, distinctly separate constitutional right from its lawmaking one, which deals with questions before the body. And that is (a) the power to determine its own rules and procedure, and (b) the ability to choose its own officers. I believe that in using the right to determine procedure and elect officers, we're not deciding a question before the body. So as it is meant, Section 11 does not apply or they would have not created this section separately. They would have put the ballot question within Section 11, which does require a recorded vote, voice vote at the request of any member. It's pretty clear from the beginning, George Norris gave a speech to the Legislature minutes before the first ballot votes were cast. And in

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that he made-- he called on legislators to resist any form of partisanship, which has been said. And I'll tell you, we have to continue to work hard to combat partisanship. We do that on both sides of the aisle. And I know that's true. And as far as any kind of slate, I have never seen a slate. I've never been asked to sign on to a slate. So if you have a slate, that's on you. I've never participated or been asked to participate in a slate, Nebraskans. So these matters of procedure that deal with the work of our body, this is something that's necessary for our constituents and for our people to understand where we're deciding things, how we're going to vote. Yes, on the death penalty it should be public. It should be public and transparent. But that is what is special about our Unicameral and about our wonderful form of the Legislature in the state. We are different from other states. We are different from Congress who often decides their leadership positions behind closed doors and then come out--

**HILGERS:** One minute.

**PANSING BROOKS:** --and make a big show that it's all transparent when in actuality it's behind closed doors. We need to continue to fight for our nonpartisanship to make sure we are not caucusing. And I'll tell you what. If we start to vote publicly on who is going to lead, we're not going to be choosing who is the best. We're not going to be choosing who has the most ability in a certain area; who knows banking better than another; who knows retirement; insurance; who knows laws better than another; who knows agriculture and natural resources better than another. Instead, we'll be listening to the voices of our parties. The parties want this person to be the leader because they're going to move them on to the next office. This is a terrible idea. It does not match our constitutional law. And I think we have to take a lot of pause once again, because we continue to do this every year, to think about something that has been in place since the creation of our Unicameral.

**HILGERS:** Time, Senator.

**PANSING BROOKS:** Thank you, Mr. President.

**HILGERS:** Thank you, Senator Pansing Brooks. Senator Erdman, you're recognized.

**ERDMAN:** Did he say me? Thank you, Mr. Speaker. Sorry I didn't hear what you said there. I appreciate the opportunity to speak on this. I am kind of reminded, I'm reminded of a comment, several comments I made on I believe it was February 10, 2017, and I listened to those

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yesterday. And so let me kind of paraphrase what I said then so those of you who weren't here then will understand where I was coming from. We had been debating the rules for 27 days and we had decided nothing, OK? And it was all about congeniality and it was all about nonpartisanship and it was all about the fact that we're a Unicameral and Chuck Norris wanted it to be that way. Anybody get that, Chuck Norris? Anyway, sometimes you have to say things to see if people are listening and obviously not too many, but that's OK. So here, here it is, all right? We are the only Unicameral in the United States of America. And to say that all other, other legislatures are envious of us is a stretch. Because if we were so right, if it was such a great way to govern, someone else would have picked it up. They haven't. We are partisan, we have always been partisan, and we always will be. And so to come in here and take the high ground and say this is going to ruin everything because we're going to change this, Senator Flood, this is changing one thing, all right? Let's get that straight. Now I have received numerous emails on this issue, as many as I have received on anything since I've come here. I have one email that I'd like to read to you. It's from Janet Hall [PHONETIC]. She lives in Morrill County near Bridgeport. She says on January 20, 21st, the Unicameral body is scheduled to vote to approve the rules that they must follow to legally conduct business. There'll be a state of-- state-recommended rule change for the committee to present it to the senators. And now is the ideal time to have a vote change to the current secret ballot for committee chairs to a publicly recorded vote. Please use the core principle upon which you ran your campaign: honesty and integrity. We citizens in Nebraska want transparency from our elected officials that we have trusted you to represent us. Secret ballots are in opposite of transparency. Please vote yes to change the rule and make future votes of all committee people a record vote. That's from Janet Hall [PHONETIC] from my district. When I was county commissioner, we elected leadership to the county board and we did that in an open public meeting. It wasn't secretive. Everybody knew how you voted. The last time I voted for somebody because I like them was in junior high. OK? I vote for people that I think can do the job. But trying to stand up here and say that we are nonpartisan because George Norris said we were nonpartisan is a fallacy. It's not true. We've always been partisan. And listen, we always will be. Deal with it. OK? Deal with it and move on. And I said this in '17 and I'll say it today, it's time to pull up our big boy and big girl pants and move on. Put your--

**HILGERS:** One minute.

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**ERDMAN:** --vote up on the board and let people know how you voted. I'm on the Appropriations Committee. We do secret votes in there for now. And if I have anything to say about it, that's going to come to a screeching halt. That's ridiculous. I asked for the record votes that I had recorded in Appropriations last year as a member of the committee. I can't even get those. Think about that. Secretive votes. Yeah, we have them. Time to eliminate them, time to stand up and be counted and let people see how we vote. This has nothing to do with selecting the right leadership. This is everything about partisanship. And it was mentioned this has always worked every year. Let me remind you, it may not have worked so well for you in '17. It may not have worked as well as you thought it should have. And had you had open voting in '17, you wouldn't have had happen what did happen.

**HILGERS:** Time, Senator.

**ERDMAN:** So it goes both ways. Thank you.

**HILGERS:** Thank you, Senator Erdman. Senator Lathrop, you're recognized.

**LATHROP:** Thank you, Mr. President. Good morning, colleagues. I am opposed to the rule change. I think one of the first responsibilities we have as senators, even before our constituents, even before policy, before any other obligation we have when we come into this body, it is to preserve the institution of the Nebraska Unicameral. Nebraskans are proud of our Unicameral. We don't have people in the-- across the state looking to go and emulate the Congress or emulate the other 49 states that have partisan bicamerals. I think our first obligation is to the institution. And I will also say that I think the legacy of term limits is the temptation, as people who are not around folks that have been here a long time and fully appreciate our first obligation to allow incremental changes to the very system that we have in place here, a nonpartisan Legislature. You can talk about transparency. It happens every two years. It's a great talking line. What it is, is we want to be able to make the Republicans vote for the Republicans and we want to find out who the dirty ones are that won't. I got to tell you, I am very grateful to have Senator Flood back here. I endorse everything he just got done saying. And I'm also glad that Senator Pahls is here as well as Senator Aguilar because they served, as I did when I first came in, with people who had a long tenure in this body, long tenure in this body. And you know what? Every year, the Republican Party would corner those Republican senators and say, don't vote for a Democrat for a committee chairman. And I can tell you, I remember looking up in the balcony and I'm not going to name the Republican leader from the party, the Republican Party, but a former

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elected official and the chairman of the Republican Party, and they stood right there and they glared down at all the members while the votes were made. I understand what this is. Don't think you're kidding me or anybody else in this room. It isn't about transparency. It certainly isn't about the constitution and it isn't about your version or your thoughts on what my oath to the constitution is. That's all B.S. to cover up. We want to get down to the-- we want to get down and find out who the scoundrels are in the Republican Party that would vote for a Democrat. You know, I served in this body. At one time, we had 9 Democrats chairing the 14 standing committees. Why? Because we had a Speaker who wanted to make sure the best people served as chairmen, not the Republicans or not the Democrats, but the best people. So that when bills come on the floor, they've been vetted, they've been taken care of, they've been thoughtfully considered by people who have demonstrated leadership and some skill in the subject matter. This temptation to, to unmoor ourselves from the basic tenets of what this institution is, we must resist the temptation.

**HILGERS:** One minute.

**LATHROP:** In the last four years, in the last four years, we saw many of our institutions under attack. If a judge ruled against our President, he was an idiot. He was a partisan. He was a Mexican descendant. We went after every institution. Yesterday, the-- Joe Biden was inaugurated and sworn in as our 46th President, and the theme of his inauguration speech is "Stop the Uncivil Wars." This is an attempt, as small as it may be, to maintain those uncivil wars, to bring this place to a partisan body one little bit at a time. It doesn't have any place here. It doesn't have any place here.

**HILGERS:** Time, Senator.

**LATHROP:** Thank you.

**HILGERS:** Thank you, Senator Lathrop. Senator Hilkemann.

**HILKEMANN:** Thank you, Mr. Speaker. Once more, we're discussing this question of eliminating the secret ballot for the election of chairman and leadership. More realistically, what we should say, we are voting to say goodbye to a nonpartisan Legislature here in Nebraska. Six years ago, as a freshman senator, this issue was discussed. Frankly, I didn't know what the right choice was. So I talked with senators that I had met that I identified with and respected. I also went back and I called former senators that I had visited with during my campaign and, and learned about this legislative process and I asked them about this question. There were only-- there was only one of the former senators

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that I talked with who said that while he had never voted to change it, maybe it was time to consider changing it. But everyone else said, do not change that secret vote. You'll, you'll regret if you ever do. After listening to the discussion on the floor and from that personal polling, I decided that I would vote to keep the ballot secret. Two years later, we essentially had what the supporters of this measure want-- every chairmanship went to a Republican except for two: one Democrat and one Libertarian. I will never forget the pit that developed in my stomach that morning as we witnessed experienced chairmen, chairpersons lose their positions, not because they were doing a bad job, but simply because they were members of supposedly the wrong party. I witnessed freshman senators being voted as chairpersons on the very first day that they were in this body. Some of you will remember that day. To me, it was the darkest day I can remember serving in this body. The tone of the session got off to such a rocky start as already been alluded to. We lost one-third of the days of our session simply fighting over the rules. It was not a productive session. I get the concerns of those of you who know that you want to know how we vote. I truly do. I've gotten many emails asking me to vote for the open ballot. I have remained consistent in my position on this from the beginning and it isn't changing this year either. I want every senator to vote for the person they believe is most qualified to be the chairman. Our state and this body is more partisan today than it was just six years ago. This is a citizen Legislature. We should take advantage of the skills and knowledge that each member brings to this institution regardless of their party. The last thing we want is for our chairmanships to be being decided with backroom deals. I believe the advantages of our present system far outweigh the disadvantages. Under the current system, we can already--

**HILGERS:** One minute.

**HILKEMANN:** --experience bitterness from those elections by people who think that we didn't vote for them or that we voted for the wrong one. Folks, I will always cast my vote for the colleague that I think is the best to serve in the position, not whether he is a Republican or she is a Republican or a Democrat. We [INAUDIBLE]. Nebraskans expect to get the best from their Legislature, not simply because of what party that they're a part of. You know, when you're a candidate, you go to a lot of groups. I can just see them asking the question, will you vote for X for chairperson for this committee? And I think back to when I, I, I was new to the whole political process. I ran because I wanted to be a part of the process.

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**HILKEMANN:** Time, Senator. Thank you, Senator Hilkemann. Senator Flood, you're recognized.

**FLOOD:** Thank you, Mr. President and members. I again rise in opposition to Senator Halloran's rule proposal, but I think there's something we need to deal with first. If you're watching from home, you know that Senator Groene lost his bid to be the Chair of the Education Chairman-- to be the Education Committee Chairman. And there was an opportunity when we adopted temporary rules to change this before the vote. He lost by a vote. Senator Walz prevailed on a secret ballot. And today, in my opinion, we're relitigating what he sees as a perceived wrong. But in his comments, don't be misled. There's references to being collegial. There's references to country club Republicans. There's references to using the right fork when you sit at the table. Let's be clear that this session has to be better than last. You want to run your mouth about dividing people, that's what we'll get here. That's what we're all going to get. You want to accuse me or Mark Kolterman or somebody else of being too prim and proper to understand what our district needs? I had an experience between the time I left here in 2012 and today where I was starting several businesses and there was a day where I couldn't make the payroll the next day. And I went into my kid's child education fund and I took \$38,000 to make the payroll. I wasn't a member of a country club. I wasn't a privileged somebody out there in the middle of rural Nebraska. I was trying to meet my obligation to make sure the people that worked for me had the money in their bank account the next day. And every time I hear this business about RINOs and collegiality and how it's so bad, here's what's bad. Somebody on South Fourth Street, she's, she's making a living on \$16 an hour and maybe less and she's got two kids and she doesn't care how the Legislature is organized. She cares from Norfolk that I'm down here trying to create opportunities so that she can get a better job and she can make more money. And so don't ever impugn that I'm down here to help people that are only of a certain class because that is how the wrong side wins. That is letting division win and not letting the right policy happen. You want to make it about something that I'm not? That's not how I operate. I'm not going to come at you and say you're less than me because you do this or you serve the rich or you serve the poor. You're down here. I respect you. I'm not going to try and divide you. But every time it happens, I'm going to meet you, Senator Groene, at the top of the hill and we're going to have this discussion every single time. Bullies do what you do and that is not what I signed up for. It seems to be a week of sore losers in a lot of different places. Let's move beyond this. Let's fight division. Let's say no to that. This is a step toward division. And every single legislative



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leader that is here had the opportunity to change it before the vote was taken for them and they didn't. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Flood. Mr. Clerk for items.

**CLERK:** Yes, Mr. President, I do. Thank you. Motions to withdraw: Senator Linehan, LB678; and Senator Matt Hansen, LB170. Those both will be laid over. A reminder Reference will meet upon recess in Room 1113; Reference in 1113. And, Mr. President, Senator Walz would move to recess the body until 1:30 p.m.

**HILGERS:** Thank you, Mr. Clerk. Colleagues, we have a number of members in the queue. We're going to keep that queue when we come back at 1:30. It will be Senator McCollister, Halloran, Lowe, and others and we'll come back at 1:30. Colleagues, you've heard the motion to recess. All those in favor say aye. Opposed say nay. We are in recess.

[RECESS]

**HILGERS:** Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Roll call. Mr. Clerk, please record.

**CLERK:** I have a quorum present, Mr. President.

**HILGERS:** Thank you, Mr. Clerk. Any-- any items for the record?

**CLERK:** I have nothing at this time, Mr. President.

**HILGERS:** Thank you. While the Legislature is in session and capable transacting business, I propose to sign and do hereby sign LR19. We will now turn-- return to the motion to adopt permanent rules and we will pick up where we left off. The first three members in the queue are Senator McCollister, Senator Halloran, and Senator Lowe. Senator McCollister, you are recognized.

**McCOLLISTER:** Thank you, Mr. President. Good afternoon, colleagues. Senator Kolterman has claimed the term RINO. I say I-- I would say that I have that distinction in greater measure than he does. "Republican in name only" is a pejorative term applied to officials elected as members of the Republican Party, but who are alleged to govern and legislate like members of the opposing party. While the term RINO is of recent coinage, the concept of being an inauthentic member of the Republican Party by not representing its more conservative faction is a recurring theme in the Republican Party. In

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fact, in 1912, former President Theodore Roosevelt, then-President William Taft, and Senator Robert M. La Follette fought for ideological control of the Republican Party and each denounced the other as not really Republican. The phrase "Republican in name only" emerged as a popular pejorative in the 1920s, 1950s, and 1980s. There is no question, in the six years that I've been in this body, that the-- the Legislature has become more partisan. Why did that occur? I contend the big reason is the fact that governors, particularly Governor Ricketts, has become more involved in the political process, and nobody can provide more resources to candidates than Governor Ricketts. We may recall that three of our former colleagues, my former colleagues, Jerry Johnson, Les Seiler, and Al Davis, were defeated in 2016. And how did that-- that happen? I think some of the dark money that's come into this political process is the cause of some of this more greater partisanship than we-- than we have, the dark hit pieces, half truths, those mailers that you receive with big pictures that show the candidate doing this or that. That's the reason I think this place has become more partisan. And that should change, perhaps with some more finance-- campaign finance reform. Senator Hilkemann pointed out that in 2017, when we had that rules debate, it poisoned the entire two-year legislative session, and I think that is true. This process of open Chairs or closed Chairs, I think, is-- does-- does the body no good. I think we've shown over the years that our current system of doing this is obviously the best. We do not want to become more like the dysfunctional Congress that we see with its caucus system. We need to stay away from that. This body needs to retain the current rules with regard to Chair elections and officer elections that we currently have. Thank you, Mr. President.

**HILGERS:** Thank you, Senator McCollister. Senator Halloran, you are recognized.

**HALLORAN:** Thank you, Mr. Speaker. You know, I had to reread my proposed amendment several more times. And both times I reread it, I could not find anything that suggested in the amendment that this amendment would tell you how to vote. I have high expectations that everyone in this room would vote for the most qualified person, regardless of what party they may belong to. So if you vote for someone, be proud of it. That's OK. There's nothing wrong with that, but the second house, someone said-- someone said, well, this institution is more important than the individual. Now, I think what they were saying was, and I agree with this, this institution is more important than any one of us individually in this room, no matter how highly we think of ourselves. And I think that's true. It is more important than any one of us individually. But what's discounted in

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that statement is, is it more important than the second house. We're a one-house system. Commonly, the public is referred to as the second house. And at some level, I find it a little bit disrespectful that we discount the importance of the second house, that we're unwilling to be open about who we vote for. And the question has to be asked, when you're back home after the committee chairs are elected, positions are elected and someone ask you who you voted for for whatever committee, do you tell them or do you say, it's none of your business. It's none of your business. It is their business. And who's to say if they'll hold it against you or not, doesn't matter, it's their business. We're about to go into a session and have 600-plus bills go through committee. And each one of those bills will have a senator's name on them, a sponsor. And the bills will be debated in committee. And if they make it to the floor, they'll be debated on the floor. Are you all going to hold hard feelings against people if they vote against your bill? Oh, I think not, but if you do, you should get over it quickly, right? That's the question. I never would have expected-- maybe I should have. I would never have expected that raising the issue of being open and candid with the public, transparent to the, to the public-- and transparency is not just a trip phrase or someone called it a some, somehow some kind of a cute phrase to use. It's very real. We have to be clear and open about what we do. So if you're unwilling to do that, that's fine. That's your choice. Just a heads up, when I call for end of debate, call the question, I'm going to call for a roll call vote because that is my prerogative, in reverse order. So if I forget to say that at the time, that's kind of a heads up that that's, that's what I'm, that's what I'm asking for. Now, I'm not going to go toe-to-toe with attorneys or lawyers in this body, wouldn't pretend to do that. But ultimately, if it's a legal question about the constitutionality of this issue, we will let the courts decide and that's the way it should be. Thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Halloran. Senator Lowe, you're recognized.

**LOWE:** Thank you, Mr. Speaker. You know, as I look in front of our gallery here, I see a board. And it has each one of our last names up there. It goes from Aguilar all the way to Wishart. And, you know, in committees, we start in committees and we hear the bills that come before us and then we exec into Exec Session and we take a vote. It's not a ballot vote, it's a yea or nay vote. It's open to those who are in the committee and the press. And then we come down here and we make hard votes. We make a lot of hard votes. We did a pro-life bill last year and it touched the hearts of almost every one of us in here. Some that voted for it, some that voted against it, but our vote was up there and I know several would have not have had their name up there,

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they wished it was a ballot vote. Do we stop there? Do we put all of our votes so our names are gone from the board up in front of us to a yea or nay? And our buttons, the minute-- the second we push them, the light goes off so nobody knows how we vote? These are very hard votes that we take on this floor sometimes. And it may be against Senator Halloran, who I vote for most of the time, but some I do not. Maybe I don't want him to know how I'm going to vote on his bill. And he and I are friends. Maybe it's for Senator Wishart and I, who politically we probably don't align very much, but we are friends. Maybe I don't want her to know how I vote. But we have a board in front of us with our names on it. Let's use that board. I am for this motion and the amendment. I'd like to yield the rest of my time to Senator Briese, if he would have it.

**HILGERS:** Senator Briese, 2:30.

**BRIESE:** Thank you, Mr., Mr. President. Thank you, Senator Lowe, for that. I appreciate the discussion so far. I wasn't really going to weigh in on this today, but I did want to make a couple comments. I've heard a lot of things here today that I can agree with. In fact, before I came to this body, I tended to agree with the opponents of Senator Halloran's motion. But I have a key supporter back home. And this supporter, she doesn't give two hoots about partisan politics or tribalism or things such as that. I think she probably votes democrat as much as he votes republican, probably a toss up. But her point on this issue is the public has a right to know. Her point is it's about transparency, period. And that's where I'm at, transparency and the public's right to know. Above the main entrance of this building is inscribed the motto, "The salvation of the state is watchfulness in the citizen." And how do we reconcile secret ballots with that lofty goal? And if the amendment to keep the press out of Executive Session ever made it to the floor, I would vote against that for the same reason. The public needs to know what we're doing down here to the extent that's possible. And I do believe both sides are miscalculating the impact of this proposal. I don't think it's going to change that much. It's definitely not going to destroy this institution.

**HILGERS:** One minute.

**BRIESE:** If I thought it was, I would rethink my position on this. I think its impact on the way we do business here will be negligible. Any impact, in my view, is, is outweighed by the public's right to know. And somebody earlier today mentioned the tone we use in this body. And I agree, we do need to weigh our words. But we also have to remember that in the heat of the moment, it's understandable that things get said that possibly aren't a good look for the body. And I

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think we all have to make a concerted effort to ensure that we avoid some of those situations. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Briese and Senator Lowe. Senator Groene, you are recognized.

**GROENE:** Thank you, Mr. President. Senator Flood, I accept your challenge. We'll have spirited debate. I'll see if I can poke you enough to get your voice raised. You go right ahead and defend the backroom traditions. Go ahead and bring the techniques against me that you used as Speaker. I talked about a lot of people-- to a lot of the people over this last year who you served with. Retribution against senators that do not toe your line, create a gang of enforcers that is intended to teach a senator a lesson, and stop good legislation that is good for Nebraska and its citizens by-- just to teach a senator a lesson. I will be watching those techniques closely. Meanwhile, I will continue to fight for the citizens who wear blue jeans to work and work the night shifts, struggle to keep their families together as government continues to attack their rights as citizens and parents. That is what I tried to do as Education Chair. I will continue to fight for property tax relief for the working family. I find it ironic, Senator Flood, that you brought up the single mother with two children. While you talk about helping them, I did. I stood against my pro-life friends when I fought to maintain state and federal funding for community health clinics. I took a lot of heat. That we're providing basic healthcare for poor families. They got caught up in the Planned Parenthood defunding fight, which I agreed with. I was the 25th vote. Last year, I was the 33rd vote on the other side, needed to stop horrendous abortion practices in Nebraska. While you make deals and talk about it, sir, I will continue to do the right thing. I have been accused of being a populist, as Senator Norris was. While Norris leaned liberal, I have come to wear the title of a conservative populist proudly. In fact, I have told my friends that I am the RINO. Sorry, Senator McCollister and Kolterman. Because if you define, Senator Flood, what a republican is, then I am a "republican in name only." Now, back to the matter at hand, you slandered me when you claim I have sour grapes about losing the Education chairmanship. I have had no hard feelings toward Senator Walz. She played by the rules. Do I resent so-called conservative senators voting against me for reasons of personal vendettas? Like, I-- hopefully you're mature enough we'll never have that. We will just disagree. But some people aren't that mature. They wait for four years and six years to get even because they couldn't debate me on the floor. I-- but I have never sought to get even with a senator by filibustering or voting against their bill ever. Every bill stands before me, it's good or bad. Can

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you name one? I can name a lot where it has been used against me. I even had a dog massage bill, horse massage bill that was filibustered by a senator who was just mad. I've never done that. Now back to the matter at hand, the people of Nebraska have watched me passionately fight for open voting for chairmanship ever since I have been here, Senator Flood. It's not a revenge or get even. I have been just as passionate in 2015, '16, '17, and today. People deserve better-- the working class people out there can't pay attention. They want to know how you vote and how we vote. We work for them. This is not--

**HILGERS:** One minute.

**GROENE:** I don't think of a better analogy than a country club, where we all have to get along and we all have to be nice to each other. I don't like that word "nice." You know it's not in the Bible? You know, Satan was nice to Eve to eat the apple. The word kind is-- and I am kind, but I'll never be nice when it comes to defending the rights of Nebraskans. As to the open voting in the constitution, let me read it to you, because the constitution was written for the people, not to be interpreted by a lawyer or judge. It was written for the people, by the people, for the people. The Legislature shall keep a journal in its proceedings and publish them, except such parts as may require secrecy. Parts. The school board has to address a bad employee, it's private. They come out of that meeting, they vote publicly. And the yeas and nays of the members on any question shall have the desire [INAUDIBLE] members be entered on the journal.

**HILGERS:** Time, Senator. Time, Senator.

**GROENE:** Am I done or got a minute?

**HILGERS:** That's time. Time, Senator.

**GROENE:** Would you give the minute warning?

**HILGERS:** I did, Senator.

**GROENE:** Oh, I'm sorry. I didn't hear.

**HILGERS:** Thank you, Senator Groene. Senator, Senator Erdman, you are recognized.

**ERDMAN:** Thank you, Mr. Speaker, and good afternoon. I listened to the debate this morning and I heard a comment that the GOP tells people how to vote and they did in the past. Well, I'm here to inform you that I've never been instructed by anybody from the GOP how to vote.

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Perhaps they know better than to tell me how to vote. So that's not a true statement when I'm con-- as far as I'm concerned. And I listened to Senator Flood's eloquent speech this morning and he made a comment about which is more honest, secret vote or open vote? And then we hear comments about partisanship, democrats, republicans. This discussion is not about republicans, democrats, independents, this discussion today is about transparency. I, over the noon hour, tried to figure out, Senator Hilkemann, how open voting would prevent me from voting for the candidate that I think is the best one. I had a hard time figuring out how-- if open voting was in place, how would that change who I voted for? It does not prevent you from choosing the best candidate. That's a misconception that you're trying to put out there that's not true. So when I was here in '17, we did elect some freshmen to be committee chairmen and I voted for them. I voted for Senator Wayne. And it's because during the indoctrination period that we were here, I got to know Senator Wayne and I thought to myself, he has the ability to lead the committee. Same as Senator Albrecht. And so I voted for them because at that time, it was my opinion that they were the best choice, freshman or not, and I voted for them. In that same '17 session, there was a freshman from a third caucus that was elected to the rule-- to the caucus of the 3rd District. That was me. Why did they vote for me? I don't know, I guess maybe they thought I would protect and stand up for what they thought was right. We have slipped off into a discussion about partisanism and all of those things that we want to talk about to try to bring away, take away from the actual discussion of why we're talking about this. And it's about transparency; 67 percent of the republicans in Nebraska think the last election was rigged and 20 percent of the democrats. Elections and transparency is first and foremost in 80 percent of the people in Nebraska and here we're talking about keeping it secret. The fact is, this is not a partisan issue. And I agree with what Senator Briese said, this will have little effect, if any, on how we go forward. This is about transparency, it's not about partisanism. And if you think and the public thinks that when we walk through those doors in the back in the morning, that our opinions and those things that we believe in, we left at the door because we're one party or another, that is false information. Doesn't change a thing. We are partisan, it's who we are. We will always be partisan. Can we get along? Yes.

**HILGERS:** One minute.

**ERDMAN:** Did you say one minute?

**HILGERS:** One minute, Senator Erdman.



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**ERDMAN:** Thank you. We are always partisan, we always have been. We can get along and we can accomplish things. I have voted for bills that Senator Morfeld brought because they were good bills. And when I see a good bill, I can vote for it, I don't care who brought it. And that's the attitude that we need to have and we need to have open voting so the public will have the transparency that they've asked for. Thank you.

**HILGERS:** Thank you, Senator Erdman. Senator Pahls, you are recognized.

**PAHLS:** Thank you, Mr. President. I'm very curious. You know, like Flood, I did not anticipate speaking this early. But I've counted the number of times the word transparency has been used on this floor this morning, I counted it 27 times. If I truly believe we wanted to be transparent, there's a thing that we call executive meetings in our committee meetings, we were concerned about having the media there. If you truly want to be transparent, you would want to have the public watch us in action during those committee, because some of the bills do not get out of committee because there's some interplay in that. That's a more value than to say who is the Chair? I think we got this all wrong. The exec-- I mean, think about it, those of you and the majority of you, have been in those meetings. Things are said that you wouldn't say out on the floor. And bills are put IPP or something like that, but you really don't have to defend it because there's nobody watching you, that I know of, unless things have changed. So we're going to talk about transparency. We've got to get it beyond the concept of the Chair. Now, here's what I got to say about the Chairs. I, I-- in my past life here, I thought every Chair that I served under was pretty good. I didn't think about them being democrat or republican or libertarian. I didn't see that. It never entered my mind. What I think is ironic, I'm-- right now, I'm on, I'm on the I would say Banking Committee and on Revenue Committee; and the chairs of those committees, doggone it, I may not have liked, but guess what, they had no competition. And I do like them both, to be honest with you. So what I did is I looked through, we-- and I'm just going to go through the standing committees. As I see it, there are 14 and we voted on Agriculture. No competition. Nobody but one person. Appropriations, one person. No competition. Banking, Commerce and Insurance, one person. My goodness, what does the public think about that? I don't think the public realizes we have more committees that we don't vote because we don't need to because we have one person running for it. Business and Labor, we had two and it was close and both are good people, but that's, that's just Business and Labor. OK, then I go to Education. We had two and that was close. So so far, we've only had two committees that we had to vote on. Now we have, let

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me see, I don't have my glasses on. General Affairs, one person. Government, Military and Veterans Affairs, one person. Health and Human Services, one person. Judiciary, one person. Look at all those times the public-- where we-- man, we pulled something on them because there's only one person. My goodness. Natural Resources, there were two. Nebraska Retirement, one. Revenue, as I spoke earlier, one. And I know you're sitting over there, I hope you take my words about you with-- in jest. She's not paying attention to me. OK. Transportation and Telecommunications, one.

**HILGERS:** One minute.

**PAHLS:** Thank you. Urban Affairs, one. Look how deceitful we are because when we're voting we're hiding all this from everyone. I know there are two or three people lost. They didn't like to do that. It's, it's this big mystery. I don't think the people in the state of Nebraska understand so many of our Chairs are actually automatic. Now, you may say if you would make an open vote, more people would run for those Chairs. That I do not know. The only thing, and I've heard this earlier, somebody said-- and I learned this from my mother-- and somebody had brought this up earlier about their childhood. I can remember when I was in high school, I run-- I wanted to run for office. You know what? My freshman year, I won. My sophomore year, I won. My junior year, I did not. I came home to my mother and I was talking, she said: Why are you so depressed? I said, I didn't win. And I said I'm going to get some of my buddies because this is high school--

**HILGERS:** Time, Senator.

**PAHLS:** Thank you.

**HILGERS:** Thank you, Senator Pahls. Senator Albrecht.

**ALBRECHT:** Thank you, Speaker. I really want to hear the end of that story, so I'll be back, Senator Pahls, to find out how that ended. But I rise today to talk about-- I guess I left a few minutes early. I had an appointment at noon, but I understand that Senator Hilkemann had something to say about freshmen [SIC] getting voted in their first year. The one thing I want to say about that is term limits has affected a lot of things in the, on this floor. I came in with a class of 18. Someone said, hey, why don't you, you know, take a run for something because of your background? And I thought, well, I suppose I could. It's just another learning curve. I mean, I was on a city council for eight years, I was on a county board for four, two of which it was 150,000 people that I led as chairman for two years. So I

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thought, well, I should be able to come in and do this. So that particular year coming down here, I called 26 people and 26 people said they would vote for me. When the vote came out, I didn't have 26, I had 25, so somebody who told me that they would vote for me and didn't. OK, that's fine. You know, I still, you know, took it over the finish line. But the other point is I talked to other people, and I'm not going to mention the senators-- which I probably should for transparency, because that's what we're talking about. So I guess I will. Senator Stinner, when I asked him if he would vote for me as a freshman going into Business and Labor, he said absolutely not. I won't vote for anybody who is a freshman. And I appreciated his honesty. And and I went to another senator and-- Laura Ebke. And she said, I'm so sorry, I've already pledged to Burke Harr. And I said, OK, that's, that's fair. But, you know, again, when it comes down to it, transparency, I've always felt from the moment I stepped into politics, it should-- things should be transparent. I would never ask the media to stay out of an Exec Session. Somebody has to keep people honest. And, and if, if things are going awry, they have to bring you back into line. But again, Senator Chambers, I miss him so, because I'll tell you for that first 60 days, he taught me more about what we needed to do in this Chamber than anybody else has ever given me the knowledge. So he sat on Business and Labor with me and he beat us up as freshman that took on chairmanships for the first 60 days. It was brutal. But you know what? After he served with me as a Chair, and Patrick O'Donnell can attest to this and others on the floor, when we brought a bill from Business and Labor, he said I was the best Chairman he's ever sat with in 40 years, that I conducted myself better than any other that he ever sat with. So I took that as a compliment. I did put it in my journal as Patrick O'Donnell suggested I do. But, but the thing is, you have to understand that things are going to happen and you get over it. You know, to Senator Groene, it's probably the best thing that ever happened to you, that you get to sit out for the next two years, fight the bills on the floor, support the bills on the floor, but you support education. So I'm quite certain that whatever comes on the floor, you'll be the one that we, we listen to as well. You've, you've earned that. But, but the transparency that we're talking about has nothing to do with partisanship. You know, you, you, you vote for who you think the best candidate should be and, and move on with the business of the day. But we've got a lot of work to get done here. And I just implore you all to support transparency. That's what the people are asking for. And I'll leave it at that. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Albrecht. Senator Groene, and this is you-- you're recognized and this is your third and final opportunity.

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**GROENE:** Mr. President, continue where I left off, this is what the constitution says. And by the way, I agree 100 percent with Senator Norris about every vote shall be recorded. "The Legislature shall keep a journal of its proceedings and publish them, except such parts as may require secrecy." Parts. "And the yeas and nays of the members on any question shall at the desire of any one of them be entered on the journal." That is impossible to do with a secret vote. I did make one mistake on the chairman vote. I should have asked for that, that would have set up constitutional grounds for a lawsuit. We still can have a lawsuit, but we should have-- I should have asked that we had a recorded vote. But that's water under the bridge. All votes, votes shall be viva voce. Not some, not one, not except the ones that are parts of a, of a meeting. All votes shall be that way. The door to the Legislature of the committees of the Legislat-- no, the doors to Legislature and the committees of the Legislature shall be open, except when the business shall be such as ought to be kept secret. Now that, Senator Pahls, is probably why we can have closed. The constitution says we can for Exec Sessions. But it goes on to say the yeas and nays of each member of the, of any committee of the Legislature shall be recorded. You can close that Exec Session, the constitution says you can. But when you vote, those votes have to be public. It is pretty clear. Yes, we need a court case. We shouldn't base what we do here by feelings. We should be mature, we should look at the constitution and follow the constitution. That is where I stand on the Constitution of the state of Nebraska. You want to talk about decorum and doing things right? When you start ignoring the rule of law based on a constitution, that is not collegial. That is wrong. It leads to chaos. You might not like voting publicly, but our constitution says we shall, we shall. Anyway, Senator Pahls, also I was going to ask for a recorded vote on some of those unanimous votes. I think we ought to have a vote even when they're unopposed. Some heads get big here. Maybe if you're running unopposed and you lose to nobody, you might change your ways or, or if you just win 25 to 24 present, not voting, you might-- you might have a concern too. I don't like unanimous votes. It says all votes should be recorded. It's pretty hard to do that when you just take aye or nay unanimous vote. So there's another issue that you-- I'll be gone, you and the-- that are stay-- coming back need to address. But there needs to be a court case, we need to clear this up. This issue causes more grief, more hard feelings than any other issue. It empowers the manipulators, the ones who can organize and get people on one side, trade votes. And those trades go all the way through the session because they're passionate about a bill. If I vote for you on this chair, will you let my bill out? If you vote for me on this chair, I will help you get

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this bill passed and that might happen 60 days into the session. Voice vote, vote gives a counter to that.

**HILGERS:** One minute.

**GROENE:** It gives a counter to that: the voter. It's pretty hard to make that deal if that voter knows how you voted. You might not get reelected. This vote-- the people of Nebraska-- on this amendment, defines your senator. Do they believe in accountability and disclosure, do they? Do they answer to you, do they? If they're running for higher office, do-- will you trust them or will they convince themselves if they can hide this from you, what else can they hide from you and justify it? It's a character vote. That's what this vote is. So watch it closely and watch those that don't show up when, when Senator Halloran calls the call of the house. That is even more telling because they don't want to vote at all.

**HILGERS:** Time, Senator. Thank you, Senator Groene. Senator Erdman, you are recognized and this is your third and final opportunity.

**ERDMAN:** Thank you, Mr. Speaker. My third time already. OK, thank you. I wasn't going to speak again, but Senator Pahls provoked me with his comment about open to the public in the Executive Session. My prior life, I served on numerous boards, elected positions, and we had a time or two where we would go into executive session. And the only people in that executive session were those whom we invited, who were involved in the issue. We discussed that in private and then we would always vote in open and public session. And when I arrived here and found out the media was always allowed into Executive Session, but nobody else was, I thought that was peculiar and I still do. We've all watched political debates on TV and once the debate is over, then we have some people come on from one side or the other, maybe both. And they tell you what the two candidates just said. You were watching and you were listening and you heard it, but yet someone comes on and tells you what it is they said. They make the assumption you're not smart enough to figure it out on your own, and so they put their spin on it. And so when we're in Executive Session and the media is in there, and this is no negative reflection on the media, but when they write their information down and present that to the public, it is always through the lens that they look through. It is not exactly maybe how you would see it or you understood it. And I don't necessarily need somebody to tell me how to interpret something that I heard or seen. So I was wondering if Senator Pahls would yield to a question.

**HILGERS:** Senator Pahls, would you yield?

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**PAHLS:** Yes.

**ERDMAN:** Senator Pahls, I've asked you this question before. I want to ask you on the mike. A former senator I know very well asked me, are Senator Aguilar and Flood, Lathrop and yourself, are you guys considered redshirt freshman?

**PAHLS:** Retread.

**ERDMAN:** Retread. OK, here's, here's my important question. You made a comment about the public should be in Executive Sessions. Did you realize that I introduced an amendment to the rules to allow everyone to be in Executive Session?

**PAHLS:** That was my introduction to you.

**ERDMAN:** OK, that was my thought. My thought was, if we can't have, if, if we, if we can't have the public in there, we should have nobody. But better than that, let's have everybody.

**PAHLS:** Agreed.

**ERDMAN:** Thank you so much. And I believe that if we're going to have transparency, and I'm standing here telling you today that open vote is a transparent issue, that's what we're talking about, I believe that my actions by introducing that rule would prove to you that's exactly what I'm trying to do. So I'm not doing the open vote because there's some kind of conspiracy or something that I want to have for myself. It's because I want transparency. And I think it's proven by the fact of what rule change I did send in. I did not bring that forward. I did not have-- I don't think I had the support in the committee, and there was no need to go through that issue if it wasn't going to get onto the floor. But transparency is important, Senator Pahls. I appreciate that. But we don't have transparency if we have secret vote and so I would encourage you to vote yes on the amendment. Thank you.

**HILGERS:** Thank you, Senator Erdman. Seeing no one else in the queue, Senator Halloran, you're recognized to close on your amendment.

**HALLORAN:** Thank you, Mr. Speaker. Well, we've had some good, open, transparent debate. I think this has been good. I want to-- I do want to make it perfectly clear that I do respect this institution. I respect the constitution. I respect the second house. And it's out of respect for all three that I propose these amendments and so I'm

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asking for your green vote on amendment Rule 1, Section 1, amendment Rule 3, Section 8. And I would like to have a call of the House.

**HILGERS:** Thank you, Senator Halloran. Did I hear that you requested a call of the house?

**HALLORAN:** Yes, please.

**HILGERS:** There has been a request to place the house under call. The question is shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 38 ayes, 1 nay to place the house under call, Mr. President.

**HILGERS:** The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator Halloran, Senator Day is on her way. That's the last remaining member. A roll call vote in reverse order has been requested. All senators are now present. The question before the body is whether to amend the permanent rules-- adopt the amendment to the permanent rules from Senator Halloran. A roll call vote in reverse order has been requested. Mr. Clerk, please call the roll.

**CLERK:** Senator Wishart. Voting no. Senator Williams. Voting no. Senator Wayne. Voting no. Senator Walz. Voting no. Senator Vargas. Voting no. Senator Stinner. Voting no. Senator Slama. Voting yes. Senator Sanders? Voting yes. Senator Pansing Brooks. Voting no. Senator Pahls. Voting no. Senator Murman. Voting yes. Senator Moser. Voting yes. Senator Morfeld. Voting no. Senator McKinney. Voting no. Senator McDonnell. Voting no. Senator McCollister. Voting no. Senator Lowe. Voting yes. Senator Linehan. Voting yes. Senator Lindstrom. Voting yes. Senator Lathrop. Voting no. Senator Kolterman. Voting no. Senator Hunt. Voting no. Senator Hughes. Voting no. Senator Hilkemann. Voting no. Senator Hilgers. Voting yes. Senator Matt Hansen. Voting no. Senator Ben Hansen. Voting yes. Senator Halloran. Voting yes. Senator Groene. Voting yes. Senator Gragert. Voting no. Senator Geist. Voting yes. Senator Friesen. Voting no. Senator Flood. Voting no. Senator Erdman. Voting yes. Senator Dorn. Voting no. Senator DeBoer. Voting no. Senator Day. Voting no. Senator Clements. Voting yes. Senator Matt [SIC] Cavanaugh. I'm sorry, excuse me. Senator, that won't happen again, I promise. Senator Machaela Cavanaugh. Voting no. Senator John Cavanaugh. Voting no. Senator Briese. Voting yes. Senator Brewer. Voting yes. Senator Brandt. Voting no. Senator Bostelman. Voting yes. Senator Bostar. Voting no. Senator Blood. Voting no.



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Senator Arch. Voting yes. Senator Albrecht. Voting yes. Senator Aguilar. Voting no. 19 ayes, 30 nays, Mr. President, on the amendment.

**HILGERS:** The amendment is not adopted. I raise the call.

**CLERK:** Mr. President, the next proposed rules change is by Senator Wayne. Copies have been distributed to the members.

**HILGERS:** Senator Wayne, you're recognized to open on your proposed rules change.

**WAYNE:** Thank you, Mr. President. Colleagues, I want to-- I'm debating if I should call the house right now or not because for those who are-- don't know, you can call the house at anytime you want if you want people to actually listen. But this rule change has nothing to do with our current Speaker, has nothing to do with the previous Speaker, has nothing to do with anybody individually, but it does have to do with how we function as a body. Last year, or last session, and actually the four previous sessions, we operated under different rules than what Speaker Hilgers announced that he would operate under. And it all comes around this fair and impartial debate. And the reason I introduced this rule is for the same reason I talked about earlier, about each individual member having the ability to control things, having the ability to make people sit down and talk, have the ability to make the body find a compromise. And what we've seen over the last at least ten years that I've not been down here, but I've been down here either testifying or working on bills, is that this idea of full and fair debate has changed depending on the bill in front, depending on the subject matter, and depending on sometimes whether it's an election year or not. And that has significant impact on how we negotiate, how we work as a group, and how we get bills across the finish line. So what I'm trying to do is add consistency. And I use the word consistency and this is why me and Senator Erdman-- or Senator, Senator Erdman and I get along so well is because I know where he stands and he's consistent. That last vote was the, only the fourth time in four years that he voted yes on a topic. OK, I might be exaggerating a little bit, but what we don't have is consistency in how we debate on the floor. And the reason why that's important is because there was a bill before I got here regarding felon voting rights and there was a long, drawn out debate that lasted for hours because that Speaker at the time had an eight-hour rule. And out of that came a compromise into the corner behind me that, that everybody was OK with that got the right for felons after their incarceration plus two years to vote. Last year, or last session, we had a major bill before us that we rammed through, that there were things and technical changes you've seen already coming back to try to fix things

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because we didn't slow down. And what was interesting is, where I give Speaker Hilgers credit is he recognized that there needs to be debate, but he left the door open. And this is not anything against him, I respect him a lot, but he left the door open and he specifically said if the debate is not fruitful, he specifically said that if somebody is reading the dictionary, then it will be full and fair debate. That isn't always the point. Sometimes it's point to find-- to use time to find a compromise or to use time to force something. And that is a major, major reason. And I'm just going to be completely transparent. Since we used transparency 28 times today, I thought I would add it to 30. We have a set number of days. Think about that, 90 and 60. The most valuable tool we have on this floor is time. And we have gave, the body has gave that most valuable tool to one individual. We can either overrule the Chair, which is 25 votes, that's not debatable, or we can put it in our rules where it requires a suspension of the rules to move on. Now, that doesn't mean eight hours has to go all the time because any individual senator can call the question at any point. And if the body feels the debate, if the body feels a debate is done, we vote on it and we move forward. But I remember Senator Bolz, who has-- my first year, brought this and then she talked about it. I can't remember if she brought it again. And then when I saw Senator Flood bring it, I thought it was right. That motion didn't, or that bill didn't make it out of committee. But I'm not going to spend a lot of time on this, but I really feel it's important that we have a clear rule around what is a filibuster, what requires 33 votes. Because right now we don't. It's been three hours, it's been four hours. There was a time it was one hour and there was a time there was 30 minutes in the last four years. That people were in the queue who hadn't spoke for the first time and we went to a 33 vote. The only way to stop that and again, this is not an indictment on Speaker Hilgers, but as an institution, when people stand up and say we have to protect the institution, the most valuable tool we have is time and we have gave that away as a body. Now, I understand Speaker Hilgers will stand up, if he's not in the queue, and probably be against this. And why not? If I have more flexibility and power, I obviously would want to keep that. But time is the most precious resource we have and the body doesn't own it anymore. And that changed in the 1980s, 1985. And everybody used to be, if you didn't pay attention to Senator Chambers when he would sit here and just talk, he sat here and just talked because he took time away from the floor. And what happened during his time the last eight years is we just started circumventing that time by just saying it's been full and fair debate. And the issue is, and this is not a Speaker issue, and this is why it's so important, the issue is the Speaker doesn't control that chair up there. Per our constitution, our Lieutenant Governor can come in any time on any

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debate and sit in that chair and he gets to make that or she gets to make that decision. Now, put that in perspective. We are literally equal branches, but we take our most precious resource and, and avenue to make change or to keep things the same and we give it over to the Governor's Office by ruling on fair and impartial debate-- fair and full debate. This is our body. We need to set the rules and we shouldn't allow somebody from the outside to sit in that chair who is constitutionally supposed to be in that chair. If he wanted to come in right now and sit down on that chair, Senator Hughes would have to get up. Speaker Hilgers cannot go up there and remove him. He can sit there. And if he says, you know what, debate's been full and fair, we go to 33. We can offer to overrule the chair, but we know that goes to the overruling the chair, not the issue at hand. The only way to be clear is to have a rule. So I'm not going to go four or five rounds. If people want to ask me questions, because to me it's that simple. And I know I've brought bills to the floor that I thought were very simple and we spent five hours on them, sometimes three days, but it really is that simple. We are talking about who controls our fair and full debate. And if it's not in the rule, the person sitting in that chair, who is not a member of this body, can always rule on that. So I want it in the rules so we're clear. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Wayne. Senator Hilgers, you're recognized.

**HILGERS:** Thank you, Mr. President. Good afternoon, colleagues. I rise in opposition to this proposed rule change. I do appreciate Senator Wayne bringing it. He and I spoke off, off the mike on this particular rule. I understand to a degree his-- or I do understand, not to a degree. I understand his argument, his point, I just strongly disagree with it. So the filibuster rule is something that I've spent a lot of time thinking about. As you know, last Friday, I announced what my intent for the rule would be for this particular session. And the reality is Senator Wayne is right in that the most important resource, I believe, that we have outside of the members in this body is the, is the time that we have on the floor. If you were to ask me the two most important things in this body, one would be the committee structure and, two, it's floor time. Now, that does mean that each senator, it is important for each senator have their right to be able to be heard on the floor. But it also means as a body, we have enough time to be able to handle the priorities that we were sent here to handle and be able to have time to debate the issues that are before us. So as Speaker, I care very deeply about the ability to manage the time for the whole body, taking into account, of course, the rights of individual senators to take time to talk about bills. But those are slightly two different questions and the filibuster rule goes directly

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to both. Because if we have a straightjacket rule that says it has to be eight hours, and I know Senator Wayne's bill says-- amendment says it could be a little bit more, it could be more, not less than eight hours, you are handcuffing the body to be able to manage its time. Now, there are-- the rule says currently you have to have full and fair debate. And I said when I talked about my rationale and logic behind the filibuster rule that I intend to follow this year, that full and fair debate cannot really mean anything between one bill and another. Every bill is going to be different, every debate is going to be different. And so there's really three ways I think you can handle this. You can handle it one way, which is just completely arbitrary. It just, it's just all, it's all based on precedent or all based on what the presiding officer says, however they feel about what the-- whether that particular debate is full and fair. I think, as I articulated on the floor a week ago, that that is the wrong rule for the body. It's a rule that creates, is likely to create an arbitrary set of decisions. It's one that creates distrust. One creates, I think, creates animosity. It's one that doesn't work. It's one that I've rejected. On the other hand, you could do as Senator Wayne has proposed, which is more or less a straightjacket, eight-four-two, six-three-one. Whatever the numbers is, the numbers might be, it's a straightjacket. Now that poses its own set of problems. I'll give you two examples that I talked about. I'll give you three examples that I refer-- two of which I referenced in my remarks last week. One of those examples is a situation that I articulated where people might get sandbagged on Final Reading. If you recall, the rule that I've set forth for this session is if someone doesn't filibuster on General File and Select File and they start a filibuster on Final Reading, in other words, there's no motion for cloture on the previous two rounds, they don't go two hours, they go four hours. And to me, there's a strong logic behind that. One, we want a disincentive that kind of activity. Number two, the whole idea between the, the cascading downward time limits is that it's, it's based on one assumption, which is you've already debated it. If you've gone eight hours and you've gone four hours, you don't need to go another six or another eight or another four. But if you haven't gone eight or if you haven't gone four before, it stands to reason that maybe on Final Reading you ought to go more. Well, under Senator Wayne's rules propose, rules proposal, that would not be allowed. A second example is going a larger time frame. Now here, Senator-- the proposal from Senator Wayne actually doesn't resolve the arbitrary, arbitrary nature of going over eight hours. What I have said in the rule that I propose is I might go up to 12 hours. LB1107 is the example of a bill with the complexity and maybe the, the, the desire to debate a bill like that might be so-- or the budget might be a bill that would require 12 hours. Here--

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**HUGHES:** One minute.

**HILGERS:** Thank you, Mr. President. Under Senator Wayne's proposal, being able to go beyond eight hours puts back into the discretion of the presiding officer, maybe it's eight and a half hours, maybe it's ten hours, maybe it's nine hours. It invites the type of arbitrariness that I think we should avoid in the body. Now, it is true, and I'll be brief, because I probably only have about 30 seconds. It is true-- well, in fact, I will just come back. I'll need more than 30 seconds. So I'll come back on the mike and finish my remarks. But I would urge you to vote red on this amendment. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Hilgers. Those in the queue are Senators Erdman, Matt Hansen, Hilgers, and Wayne. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Mr. President. I appreciate that. Senator Wayne, I appreciate you bringing the amendment and having the discussion today. I'm going to do something that could be dangerous for me. I'm going to ask if you would yield to a question.

**HUGHES:** Senator Wayne, will you yield?

**ERDMAN:** Senator Wayne, what I'm about to ask you is a question about the government and the constitution. And remember, I'm a farmer, right? So I don't have the training in law, but I can read and you made a comment in your remarks that the Lieutenant Governor could come in here and take over the chair and we are equal but separate units of government. Did you mean that the executive branch and the legislative branch are equal?

**WAYNE:** We're supposed to have three, three branches of government that are supposed to be all equal.

**ERDMAN:** No, I don't, I don't believe that to be the case.

**WAYNE:** That's perfectly fine.

**ERDMAN:** And here's my thought. And you may help me with this. If, if you would like to talk about farming issues, I'm pretty well versed on that, so I would feel pretty comfortable with that. I'm not well versed on the constitution. But here's what I've done this last offseason, I have taken a copy of the Federalist Papers and began reading through some of those to determine what authority the executive branch is to have and what authority the legislative branch has and judicial. And I concluded, and you help me if I'm wrong on

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this, but I concluded from-- and I don't remember which one it was I read, that said the legislative branch has the most authority, the executive branch implements the authority given to it by the legislature, and the judicial branch is the least powerful because they do not have control of the purse strings. So did I miss my interpretation of the Federalist Papers? Is that not a true statement?

**WAYNE:** Well, first, the Federalist Papers are not a constitution of itself, and--

**ERDMAN:** I understand.

**WAYNE:** But if you look at the Federalist Papers, we're talking about federal. And actually in Nebraska, we have multiple branches of government. If you look at a Supreme Court ruling, our University of Nebraska, we can't, we can't really tell them what to do. If you look at we have a State Board of Education in our constitution and we don't know if they're executive or legislative, they kind of are quasi according to court. So, so I can't compare the Federalist Papers to Nebraska because we have a completely different constitution, but generally speaking, we have three branches of government that are equal.

**ERDMAN:** OK, that's your opinion. I don't, I don't, I don't believe I see it that way. I think the executive officer, whether it's a he or she, has the authority given by the Legislature to do certain things. And without the approval of the Legislature, they cannot pass laws or implement things that we haven't already given them authority to do so. So that was my question. You kind of provoked my thought process there when you said that. I don't believe that I can support your amendment. I understand what you're trying to do, but I agree with what Senator Hilgers tried to describe and discuss with us. And so this may come a shock to you, but I'm not voting for your amendment. Thank you.

**HUGHES:** Thank you, Senator Erdman. Senator Matt Hansen, you're recognized.

**M. HANSEN:** Thank you, Mr. President, and good afternoon, colleagues. This-- a bit of a sidetrack before I start. But Senator Erdman, Senator Wayne, the discussion of, especially at the federal level of which branches are the most powerful and, and why is actually a question I give all of my students as a, as a response paper most semesters. And generally there's a group of students that picks each of the three different branches and has some pretty good arguments for that. So great minds could-- great minds and young minds can circle

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that question for a long time. I just thought I'd share I found that a little close to home. With that, I did want to rise and address a couple of things about the permanent rules and specifically this motion by Senator Wayne. Just as a reminder and I know Senator Clements spoke to it earlier, the Rules Committee didn't bring forward any proposals that were not unanimous. And as such, there were many rules proposals in which didn't get much discussion in Executive Session because it was acknowledged that there was opposition or a problem or whatnot. This rules proposal didn't necessarily get discussed at all because it was my understanding Senator Flood withdrew it and asked for it to not be considered. That being said, I think broadly, this concept of having standard cloture rules that are applied fairly and that everybody understands is very important. And one way to do that and has been the case my-- say my first two years with Speaker Hadley, to just simply have a rule that was a time and it didn't change. And if four hours took you over lunch, took you over a weekend, what have you, you had to go. Another way is obviously having some sort of more understood but floating standard. And so I think I'm in support of, could be in support of this motion. I'm still honestly debating it. Senator Wishart came over and asked me how I felt about it and I gave her the, the two-shoulder shrug because I like the concept and I like where we're going, but at the same time, I do believe that Speaker Hilgers has been very clear about how he wants to view this rule. One thing I do wanted to rise, and what I initially turned on my microphone for, because it's already happened once today, is us being mindful of what qualifies as good debate, productive debate, sincere debate. That's something we've seen in the past where, you know, people view a debate that's taking a long time. And if it's taking a long time, it must be a delay tactic and it must be a filibuster as opposed to sometimes where it's just genuinely a complicated bill that has moving parts. You know, personally, I'm of the philosophy that, for example, an item like the budget or maybe a giant revenue package, that a culture should be very judicious and we should take some time and some coordination to make sure we get through amendments and consider different parts. So I'm rising to kind of bring all these theories together. Moving forward, my philosophy and how I view about the rules, both the written rules that we're debating today and kind of the unwritten rules between the norms of the body, the memos issued by each speaker, the memo specifically issued by Speaker Hilgers is I'm from the philosophy of I would like to know how the system works and I would like to know how the rules are going to be applied. I'm happy to work within whatever confines we as a body decide and whatever confines our leadership decides, as long as we as a body can kind of consistently agree on that interpretation and we know what to expect. In my mind, that's one of the things that



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smooths out the body as well, is if there's the same rule that applies to my bill that I like and my bill that I'm opposing-- or obviously I wouldn't oppose my own bill, but a bill that I'm opposing and I understand that this is the same system, the same standard, the same back and forth. That's something I think we've deviated from in the past. And I think I've been open of that, with that and open up that criticism.

**HUGHES:** One minute.

**M. HANSEN:** That's something-- thank you, Mr. President-- that I'm very hopeful we will go forward with here. So with that, that was a long way of saying I'm a little bit undecided on the Wayne amendment still because I do think we are approaching better clarity. But I do think he has set up a failsafe, putting just literal times down is the clearest way to kind of resolve this different standards for different bills on cloture. So with that, I thank the body, and thank you, Mr. President.

**HUGHES:** Thank you, Senator Hansen. Senator Hilgers, you're recognized.

**HILGERS:** Thank you, Mr. President. Good afternoon again, colleagues. Just finishing where I was, where I left off before. I think there's two ways you can try to handle this. You can have a completely arbitrary system, which I think I certainly reject. And I think, if not everyone, nearly everyone else would reject. On the other hand, there's the straitjacket system, which says no matter what the issue is or no matter what the, what, what the debate is like, we could read the phone book for eight hours, that's going to go eight hours no matter what. And I think when we're talking about an incredibly precious and scarce resource like floor debate, there ought to be a third way. And that third way is the way that has been adopted, I think, for, for the most part, since we've had the cloture rule. So when I did the research and working with the Speaker's Office, the Clerk's Office, looking at how the cloture rule has been applied in this body before, there was actually a period of time, it was a very short period of time, in which this body had, had in the rule that full and fair debate is at a certain time threshold. It used to be eight hours, eight hours, and eight hours. Now, that wasn't for that long a period of time in the history of cloture rule, but the body implemented it and then ultimately repealed it. And I think there's good sense for that. Because while there is a very important reason to have objective guideposts, which is why my rule this year, but this goes beyond my rule this year did-- does rely heavily on an eight-four-two system. There also should be when we're managing resources and we don't know what issues are going to come down the

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pike, we don't know what problems are going to arise, how we can help manage time to get the work that we need to get done, done, there ought to be some give in the joints. And I think having a system in which there-- we have the flexibility to be able to adjust as needed, I think is very important. Now, Senator Hansen's point, and I think Senator Wayne's point as well, is very well taken, which is that by having that flexibility, you do give way to the possibility of abuse or the possibility of arbitrary application of the rule. And I, and I, I think that's absolutely a valid concern. And the way that I intend to approach it and I think that it ought to be approached is to, one, very rarely, if ever, give from your, your standard or change from your standard approach. And number two, if you ever do that, explain fully, clearly, and fairly as to the reasoning behind the logic, just like you would in a court decision. And number three, apply that across other bills in same situations. So I think if you weigh the three systems, the straightjacket system, the arbitrary approach system and the system that we currently have that I would ask, ask this body to keep, which is a let's rely on objective guideposts, but let's realize that we can't predict the next 79 days of session, we can't predict the issues, we can't predict the debate, and that we should have some flexibility in our system to be able to account for those things that are unpredictable. I think that's consistent with how this body has acted over the decades and their learned experience about what works. They tried this and they repealed it. I'm happy to answer any questions or dialogue with further. I appreciate Senator Wayne bringing it so we could, we could talk about this particular rule. But at the end of the day, I would urge you to vote red on Senator Wayne's amendment. Thank you, Mr. President.

**HUGHES:** Thank you, Speaker Hilgers. Senator Wayne, you're recognized.

**WAYNE:** Thank you, Mr. President. And so, colleagues, first let me clear up a couple of things. I do agree that time and committee structure with Senator, Speaker Hilgers is correct, but that time should belong to the body. The flexibility that he is talking about should belong to the body. There is not-- what this amendment does is set a floor. If Speaker Hilgers still wants to go 12 hours on LB1107, he can still do that underneath this amendment. And if the body decides we are done listening to Senator Wayne read a phone book, the body gets to decide to make sure it's been full and fair debate. It's the body. The issue is the threshold. Overrule the Speaker is 25, to suspend the rules is 3-- is 30. It's a threshold that the body gets to decide the flexibility, the body gets to decide how the scheduling will work on a floor debate. That's critical when we talk about major issues. And the other reason I, I brought this amendment was I think

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it's just important for, because I really didn't appreciate it my first couple of years, the importance of rules and how we function. And the biggest thing that I learned and I'm going to repeat this again, is that each individual member has the power to stop things and to force compromise. But our most precious resource is time. And so this is where I guess our backgrounds will differ. My background and the community I represent is 100 percent skeptical of one individual controlling the debate. I would venture to argue that most conservatives are in the same boat. We don't want one individual to control the time of debate. And that's what we've done here over the last 30 years and we've got around it. We've got around trying to change how, whether it was Senator Chambers or the year that we stopped property taxes because-- relief because conservatives didn't want to do it and we didn't have a full debate, we just ended it. And there were compromises to be had and people to talk on the floor, but if we can't do that-- and I also want to point out something else, and this is not a knock. But for the next 30 days, Senator Clements, I'm not going to see you. Senator Lathrop, I'm not going to see you because we're going to be in full-day committee hearings. So I'm not going to get a chance to have that informal conversation to talk about maybe an idea that you would like on a bill that you might have. We are literally cutting down our floor debate by over 30 days. And although that's just morning, there is a lot of informal interaction that occurs that helps build coalitions down the road that we're not going to have. And by setting a rule, and I actually think it's a good idea our first year on the odd years to probably have full-day committee hearings because we're not doing a whole lot, but then we got to ensure in our rules we have full debate. So we can have those conversations that we can't have the first 30 days of three to four hours a day that are nonexistent now. That's important. And this is not any indictment on Speaker Hilgers. We've had these conversations. We've had these debates four years ago, and colleagues, this is really how a debate occurs and should occur on the floor. We just talk. And we're going to continue to have these conversations. But the fundamental conversation, or the fundamental vote here is simple. Do we continue to put all of our eggs in one basket when it comes to time on issues? And think about all the times that we didn't get to finish our full debate.

**HUGHES:** One minute.

**WAYNE:** Think about all the questions you might have wanted to ask a colleague on the mike that we just didn't get to over the last four years because there was an arbitrary number. This puts it in stone. In stone in the sense of this, if the body wants to do something

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different, the body can choose to. This is empowering the body. And so I hope you guys will vote green, I'm asking for your vote green, because it's time for the body to take back some of its power and at least our most precious resource of time and that we control that time. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Wayne. Senator Machaela Cavanaugh, you're recognized.

**M. CAVANAUGH:** Thank you, Mr. President. Good afternoon, colleagues. I first would like to say that most of you know I have five brothers and one of them is Matthew Cavanaugh. He is not elected to office. And I just wanted to clarify for those watching at home, especially my parents, Matthew Cavanaugh is not a state senator yet. I rise in support of Senator Wayne's amendment to the rules. I, I appreciate what he's trying to accomplish with having a streamlined, clear, and concise guideline. I do believe that we should have the option to increase the time to 12 hours for those major proposals. And I think that that's something that we can probably come to an agreement on that, if it's a major proposal, that the Speaker and the Executive Board could decide to make it 12 hours for fair and full debate. The reason that I am concerned about having more flexibility than that is out of what happened last session and the year before when we don't have, as Senator Wayne pointed out, we don't always have control over the chair, sometimes the Lieutenant Governor in the chair. And if it's something that the Lieutenant Governor or the Governor want to see happen, we are giving them disproportionate power. We had a bill that we were debating for a pull motion. It had been debated for an hour and a half. There were 14 people in the queue who had not yet spoken, including the chair of the committee that the bill was being pulled from. There was a call of the question and the chair decided that it had been full and fair debate after an hour and a half and 14 people not getting to voice their opinion about the pull motion for the record. So I do think that this is important for the integrity of the process. And I appreciate that we should be able to have some flexibility, but I also appreciate that we need to protect ourselves when we don't have control over what's happening in the chair. So with that, I would yield the remainder of my time to Senator Wayne, if he would like it, or else to the chair. Thank you.

**HUGHES:** Senator Wayne, 2:40.

**WAYNE:** Starting with A. No, I'll yield to you.

**HUGHES:** Thank you, Senators Mac-- Cavanaugh and Wayne. Senator Clements, you're recognized.

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**CLEMENTS:** Thank you, Mr. President. I rise in opposition to this amendment. I believe that the rules procedures that Speaker Hilgers has proposed, I'd like to see how that works. But I felt comfortable with his decision and that he has researched it carefully. But there was one phrase that is troubling me, talking about reading through the phone book. And I've been reading the, all of the rules since becoming-- well, since before becoming Rules Chair. And on page 11 is Rule 2, Section 7, it says: A member shall speak only when recognized and shall confine his or her remarks to the question before the Legislature. And unless the bill being presented is changing the phone book somehow, I don't see how that is germane to the question. And this is a rule that I have been aware of for quite a while, but I hadn't, hadn't brought it forward just because it was going to be coming some-- probably argumentative. But we are, our rule says we're to confine our room-- remarks to the question before the Legislature. And if we have a very simple bill that doesn't have a lot of complexity, I'd like to have flexibility based on the content of that bill and not require eight full hours where we're probably not confining our remarks to the question or we're just repeating the same points over and over. And also there is ability for any member to challenge the ruling of the chair. If the-- excuse me, I think the cloture vote may not req-- may not allow that, doesn't it? Yeah, there is not a challenge allowed on the cloture decision by the chair. See, I have been reading, but I get confused in time. Anyway, I do think flexibility is the best way to go and it lets us do confine our remarks to the question. And I would like to yield the rest of my time to Senator, Speaker Hilgers.

**HUGHES:** Speaker Hilgers, 2:10.

**HILGERS:** Thank you, Mr. President. Thank you, Senator Clements. I'll be, I'll be brief, actually. I'll, I'll, I'll sort of move away from the merits just for a second. I, I did want to just say I appreciate Senator Wayne coming to me beforehand. So I-- when I, when, when I went-- on our opening day two weeks ago and what I've said a lot before then and since, that I think one of the ways that you can have friendships fracture here and distrust bloom is where you surprise people and, and you blindsides them or you bring issues that they weren't anticipating. And so I think it's important to emphasize the importance of fair process and not having surprises. So, again, we can focus on the underlying issues before us, the policy debate before us, and not some other side issue. And so I want to thank Senator Wayne for coming to me beforehand. He gave me a heads up. We talked it through. We've had a number of conversations off the mike. And I think even generally stepping back on this rules debate, I believe this

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might be the last rule that we're going to discuss beyond the package. And both of those rules were brought before the debate today. I certainly was aware of them, I think almost everyone else was aware of those rules. And so I appreciate, I appreciate the fact that those rules were brought, the proposals were brought in a way that didn't surprise anybody, and gave everyone a heads up.

**HUGHES:** One minute.

**HILGERS:** Thank you, Mr. President. So I appreciate Senator Wayne and that's all I have. Thank you.

**HUGHES:** Thank you, Senators Clements and Hilgers. Seeing no one else in the queue, the question before us is the adoption-- oh, excuse me, Senator Wayne.

**WAYNE:** I get a closing, right?

**HUGHES:** Yes.

**WAYNE:** OK. Thank you, Mr. President. So first I want to thank Speaker Hilgers for, for engaging in this debate. And today, out on the mike in this body, I had Speaker Hilgers say I was right twice, so I'm not going to hedge my bet anymore and I'm going to withdraw this motion and take-- win while I'm ahead, I guess is what you [LAUGH]-- but no, I am going to withdraw this motion. I think it was an important debate that we have. I talked to a couple of colleagues and their concerns and I think in two years, I'll bring something back that's a little more fleshed out so we could have a more robust debate. But I do appreciate Speaker Hilgers in this and I do withdraw my motion-- or my amendment, sorry.

**HUGHES:** Thank you, Senator Wayne. The motion now before us, colleagues, is a motion to adopt the permanent rules. Senator, Senator Clements, you're welcome to close if you choose.

**CLEMENTS:** Thank you, Mr. President, and thank you all for the spirited debate we've had about the rules and we've learned how important they are. I thank my committee, who spent a lot of time hearing a lot of different proposals, we had about a four-hour hearing, listening to people's ideas. And they were good ideas and some have been brought forward and some haven't. And those who brought amendments, I'm glad that you did. And I do think what we have passed will do the body well. And I thank you all for the time and I would ask for your green vote to adopt the permanent rules as amended. Thank you, Mr. President.

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**HUGHES:** Thank you, Senator Clements. Colleagues, the motion before us is to adopt the permanent rules. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

**CLERK:** 45 ayes, 0 nays, Mr. President, on the motion to adopt permanent rules.

**HUGHES:** Thank you, Mr. Clerk. Announcements.

**CLERK:** I do, Mr. President. Thanks. A series of name adds, Mr. President. Senator Blood to LB4. Morfeld to LB8. Blood, LB64. Murman, LB75. Lindstrom, LB76. Day, LB313. John Cavanagh, LB335. Blood, LB387. Brandt, LB388, LB498. Bostar, LB507. Hunt, LB507. Matt Hansen, LB517, LB575. Morfeld, LB581. Ben Hansen, LB638. Mr. President, Referencing will meet upon adjournment in Room 1113, Referencing, 1113, upon adjournment. And Mr. President, finally a motion to adjourn. Senator Slama would move to adjourn the body until Friday morning, January 22 at, at 9:00 a.m.

**HUGHES:** Thank you, Mr. Clerk. Colleagues, you've all heard the motion. All those in favor say aye. Opposed, nay. We are adjourned.