

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 12, 2021
Rough Draft

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

WALZ: Thank you. Good morning, colleagues. I hope that you will give me a little bit of grace this morning and allow me to be just a little bit vulnerable. I have to tell you, first of all, that I love to talk to Jesus and I talk with him all the time. I always have. One of my favorite places to talk with him is either around our fire pit or on my back step on the patio. I talk to him about how thankful I am for everything that we have. I mean, I look around at everything that we have and how blessed we are. But I also talk to him about some hard things and some ugly things. Last fall, our family went through a pretty tough trial in the middle of a pandemic and in the middle of a campaign, and I will tell you that it brought me to my knees like nothing had ever done before. I learned a lot through that experience and I continue to learn because it's tough. I learned to humble myself and know that God has a plan. I learned that when I try to take control of the situation, and believe me, I tried to take control of the situation, but I learned by doing that, by manipulating the situation, I interrupt God's plan. But waiting is hard. I had a lot of tears, a lot of stress and anxiety about the future, especially as a mom who loves her kids and wants to fix things so bad for them. So I asked him, what do you want me to do while I'm waiting for your plan? And, colleagues, I have to tell you, the answer came back so clearly. He spoke straight to me and he said, be good and do good. And when I stopped manipulating, when I stopped badmouthing and gossiping and trying to change the situation and just let God do the work, I saw the situation change. Lord, we need you and we do desire more of your presence because we know your presence brings healing, your presence brings joy, and your presence brings unity. In a time when there's so much division, so much pain and stress, help us to remember that this is not just a political thing. It's the enemy. It's evil working to destroy our hearts and to sow hate. But the enemy won't win because you are more powerful and you have the plan, a plan for our nation and a plan for our world. We invite your presence to show up and speak to us, to give us direction and peace. And when it feels like hell has broken loose, Jesus, remind us that heaven is about to break through. Forgive us every time we put our trust in anything other than you and your love and your grace. Unite us like never before so you can do something that you always intended to do: open our hearts and help us to step into the plan and purpose you have. And while we wait, let us

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be good and let us do good. By your grace, power, and might, we know that together we can change the world. Amen.

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

WILLIAMS: Mr. Clerk, please record.

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

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

ASSISTANT CLERK: No corrections this morning.

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

ASSISTANT CLERK: Just one, Mr. President, a Reference report from the Referencing Committee referencing LB45, LB46, LB139 through LB212, LR5, LR13CA, and LR-- LR14. That's all I have at this time, Mr. President.

WILLIAMS: Thank you, Mr. Clerk. Senator Hughes, you're recognized.

HUGHES: Thank you, Mr. President. Good morning, colleagues. I want to bring you some news about COVID testing that's going to be available to we senators and our staff here in the building. We've been working with the Nebraska-- University of Nebraska-Lincoln to begin offering the SARS-CoV-2 saliva test in the Capitol for senators and legislative staff who want to be tested. This is not a mandatory test. This is strictly voluntary. Currently, we're planning to offer testing each week throughout the session. Result-- results will be-- will be returned to each individual taking the test within 24 hours. There are several logistic steps that we are continuing to work through as we find the best process for conducting testing in our environment. The first testing opportunity, we hope, the last information we have, will be this Thursday, January 14. It will be administered in the Warner Chamber from 8:00 to 10:00 a.m. You will enter in the main door of the Rotunda, take the test, and exit through the Chamber to the north side door. I intend to send out an email with information regarding required consent forms and other instructions as soon as we finalize all those details with UNL. So we're still trying to put the finishing touches on this. The last communication we've had with UNL is this

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Thursday will work. If they happen to have a glitch on their end and it does not start-- but we're hoping this Thursday testing will be available to we senators and our staff, if you choose to have it, a saliva test with results within 24 hours. There is some documentation that you will have to provide so they can track the individual. But other than that, if you have additional questions, come talk to me or talk to Janice Satra in my office. She's been the one coordinating this. So thank you, Mr. President.

WILLIAMS: Thank you, Senator Hughes. Speaker Hilgers, you're recognized.

HILGERS: Thank you. Thank you, Mr. President. Good morning, colleagues. I want to thank, by the way, Senator Hughes and the Exec Board staff for all the work, and the university for the weeks of work that they have put in to put that testing in place. I rise this morning, colleagues, to give you the announcement that I promised last week, which is what I intend to do with the filibuster during this session. You know, the filibuster rule really goes to, I think, the heart of a number of really important things, some of those things that I touched on last week. It goes to the heart of our floor debate, which I think is one of the two most important tools that we have in addition to our committee, our committee system here in the Unicameral. It also goes to things that I think are important to me for-- relating to process and culture. I talked a lot about it last week and I've told-- talked to, I think, almost everyone now individually about the importance of having notice and lack of arbitrary rules and equal treatment amongst members in the body. So I've thought very deeply about this issue. I've gotten feedback from senators on this issue. What I'm going to do is I'm going to just briefly tell you what the rule is going to be. I will walk through a little bit of my reasoning, but I've also drafted a memo that we'll be publishing online and circulating here to your desks, and I invite you all to read through the reasoning in that memo and read it very carefully as it lays out the expectations for how the filibuster rule will be-- will be applied this session. So briefly, what the rule is, on General File, full and fair debate will be considered at-- at eight hours; Select File, that will be at four hours; and at Final Reading, that will be two hours. Now there's a couple of very important caveats to note here. The first one is, if there is no motion for cloture that has been adopted at General File or at Select File, the Final Reading threshold will not be two hours. It will be four hours. The reason for that is because, and this is-- I'm speaking now a little bit to some of the new members, like Senator McKinney, Senator Day, those who have

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not served in the body before. The reason is that, in general, it's the body's expectation-- it's certainly my expectation-- that filibusters are brought at General File. Sometimes they occur at Select File. They should rarely, if ever, occur at Final Reading. If we just applied an eight-four-two rule without any other context or consideration of the other circumstances, that means someone could-- could start a filibuster on Final Reading and only have to go two hours, so if you are fili-- if there is a motion for cloture on previous rounds of debate sort of implies that there's been a lot of debate on the issue before, but if there hasn't been, that means we need more time at Final Reading. So the first caveat is, if there's no motion for cloture that's been adopted at either General or Select, doesn't have to be both, Final Reading threshold will be four hours. The second thing I want to note is that this is-- and I'm going to talk a little bit about the reasoning and why it's important to stick to these time limits. However, even though I do think it's very important to stick to these time limits, I am explicitly telling the body now that there might be some rare, and they might not occur, circumstances in which I deviate. There's two ways that that could occur. One is it is possible that at General File it will not be 8 hours, but it could be 12 hours, and that, think of bills that are so complex, so material to the state of Nebraska, and such an important policy issue that the body needs more time. I can't tell you that there is one bill that will meet that standard this year. There may not be any. In fact, it very well likely there might not be any. But I know in the four years I've been here, there have been some bills where I've-- I've felt the frustration of the body to not be able to talk through all of the issues in those items and the importance and how they impact our various constituencies. So I want to explicitly reserve the right to be able to increase that level. If-- if that happens, though, I will give you notice in advance. And I will tell you, if it happens, that it will be the kind of issue where everyone should nod their head and say, yep, that's-- we need more time. Secondly, it is possible, not expected but possible, that it could be adjusted downward. Now-- and I'm going to talk about my reasoning in a second-- I'm very reluctant, if ever, to adjust downward for a variety of reasons. But it is my expectation, as a matter of culture, and I think it's Nebraskans' expectation and I think it's the body's expectation, that we are talking about the issues when we debate issues on the floor. And so I will be watching debate and I reserve the right in extraordinary circumstances that, if we aren't meeting that expectation, to have a lower threshold. Now I'll be very, very clear with you. If that ever happens, that will be precedent that will

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be applied equally to-- no matter-- to similar situations. I want fair notice to the body of what the filibuster rule is going to be, so it's very important to me. That being said, we have high expectations for one another and if the debate-- I will be watching the debate and if it isn't leading up to those expectations, then at least reserve the right to adjust. I do want to briefly tell you why I chose to have a rule that was like this in the first place and then the thresholds, because if you read the rule, there actually is no threshold in the rule. It is-- the requirement is full and fair debate. And as a matter of principle, I do not believe-- as a matter of principle, I don't believe that you really can pick just one number and have it apply to all issues. Every bill is different. The debate on every bill is going to be different. The-- the materiality is going to be different. And so as a matter of principle, it's hard to say that one hour should apply. Nevertheless, for very important reasons that I want the body to hear from me directly, I want to have and ensure that we have these thresholds and the reasons are a few. One is notice. You can't prepare, in my view-- you-- you cannot prepare for debate if you think that there's going to be an ever-shifting level of-- it's just the whim of the presiding officer. That's number one. Number two is equal treatment. I talked a lot about arbitrary rules last week and the-- the-- the erosion of trust that can occur if people don't feel like rules are treated to them equally as they are treated to other members. You-- we are 49 equal senators. The rules will apply to you just like they apply to someone else. So to avoid having any suggestion of an arbitrary application of a rule, I've decided to have these thresholds to ensure that we have that system in place. Those are the two primary reasons for why I decided. In addition, I think eight hours, if you look historically, eight hours is really kind of the threshold. Most issues are fully debated by about-- by about eight hours, except for maybe these extraordinary ones that I've suggested could exist in the future. And so eight hours felt like a good time in order for us to be able to get the work that we needed to-- to have done. So if you have questions about this, please don't hesitate to find me. Talk to me. Talk to Laurie in my office. I expect that the floor debate on this-- this session, I'm excited for it. I think it's going to be outstanding. I think-- I'm excited to hear the contributions from all the members and my hope is that this process can take our attention away from something that really detracts from good policy, which is concern about process and fairness and equity amongst members, and really put on where-- put our focus on where it should be, which is the issues, the arguments, and getting good policy for the state of Nebraska. So I appreciate your time here listening

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this morning. The memo will come out. I do encourage you to read it, and I look forward to an outstanding session debating issues on the floor. Thank you, Mr. President.

WILLIAMS: Thank you, Speaker Hilgers. Mr. Clerk, we'll return to the agenda.

ASSISTANT CLERK: Thank you, Mr. President. Introduction of new bills: LB264, introduced by Senator Stinner, is a bill for an act relating to the Nebraska Arts Council; states intent for the Legislature to appropriate funds for and to change provisions relating to the competitive grant program; and repeals the original section. LB265, introduced by Senator Blood, is a bill for an act relating to the Property Assessed Clean Energy Act; provides an annual report exception; repeals the original section; and declares an emergency. LB266, introduced by Senator McCollister, is a bill for an act relating to renewable energy; adopts the Renewable Energy Standards Act and provides an operative date. LB267, introduced by Senator McCollister, is a bill for an act relating to municipal counties; provides an exception to certain budget limitations; changes provisions relating to municipal counties; harmonize provisions; and repeals the original section. LB268, introduced by Senator McCollister, is a bill for an act relating to the Uniform Residential Landlord and Tenant Act; changes provisions relating to a landlord's right of access and repeals the original section. LB269, introduced by Senator McCollister, is a bill for an act relating to the Nebraska Treatment and Corrections Act; changes provisions regarding the annual review of a committed offender's record; requires publication of a list of nonviolent, elderly, committed offenders with medical conditions; eliminates obsolete language; and repeals the original section. LB270, introduced by Senator Morfeld, is a bill for an act relating to pharmacy benefits; transfers provisions related to pharmacy benefits; requires an audit as prescribed; harmonize provisions; provides a duty for the Revisor of Statutes; repeals the original section; declares an emergency. LB271, introduced by Senator Morfeld, is a bill for an act relating to driving under the influence; adopts the 24/7 Sobriety Program Act; authorizes a 24/7 sobriety program permit for operating a motor vehicle as prescribed; prohibits participation in pretrial diversion programs for certain driving under the influence and driver's license revocation violations; provides penalties; harmonize provisions; provides an operative date; repeals the original section; declares an emergency. LB272, introduced by Senator Morfeld, is a bill for an act relating to revenue and taxation; adopts the Apprenticeship Training Program Tax Credit Act;

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harmonize provisions; repeals the original section. LB273, introduced by Senator Lowe, is a bill for an act relating to youth rehabilitation and treatment centers; redefines terms; provides for use of facilities as youth rehabilitation and treatment centers; permits provision of care at another youth rehabilitation and treatment center; harmonize provisions; and repeals the original section. LB274, introduced by Senator Lowe, is a bill for an act relating to the Nebraska Liquor Control Act; provides for a promotional farmers market special designation license; provides for a fee; provides powers and duties; harmonize provisions; and repeals the original section. LB275, introduced by Senator Brewer, is a bill for an act relating to the Semiquincentennial Commission; creates a commission and provides duties for the commission relating to the Nebraska [SIC] States Semiquincentennial; provides duties for the Governor; and declares an emergency. LB276, introduced by Senator Hunt, is a bill for an act relating to abortion; eliminates provisions relating to physician's physical presence; and repeals the original section. LB277, introduced by Senator Hunt, is a bill for an act relating to the Mobile Landlord and Tenant Act; changes provisions relating to the return of rental deposits, damages, and periods of time for the paying of certain overdue rent; harmonize provisions; repeals the original section. LB278, introduced by Senator Wayne, is a bill for an act relating to the Uniform Controlled Substances Act; changes the penalty for possession as prescribed; and repeals the original section. LB279, introduced by Senator Bostar, is a bill for an act relating to the Nebraska Affordable Housing Act; authorizes certain activities that are eligible for assistance from the Affordable Housing Trust Fund; repeals the original section. LB280, introduced by Senator Albrecht, is a bill for an act relating to insurance; eliminates state residency requirement for the board of directors of an insurance company; and repeals the original section. LB281, introduced by Senator Albrecht, is a bill for an act relating to schools; requires child sexual abuse prevention instructional programs for students and staff. LB282, introduced by Senator Albrecht, is a bill for an act relating to crimes and offenses; changes provisions relating to defenses for offenses involving obscene material; harmonize provisions; and repeals the original section. LB283, introduced by Senator Briese, is a bill for an act relating to time; provides for a year-round Daylight Savings Time as prescribed; harmonize provisions; repeals the original section. LB284, introduced by Senator Machaela Cavanaugh, is a bill for an act relating to the Governor's Emergency Program; provides requirements regarding federal funds; and repeals the original section. LB285, introduced by Senator Brewer, is a bill for an act

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relating to government; changes election provisions relating to voter registration lists and requires notice of filing deadlines, filing periods, filing forms, filing fees and write-in votes; changes the certification deadline for certain public power districts; provides a written notice of appointment requirement for educational service units; eliminates provisions relating to overvoted ballots; repeals the original section; and outright repeals Section 32-1006. LB286, introduced by Senator Walz, is a bill for an act relating to education; redefines a term; and repeals the original section. LB287, introduced by Senator Walz, is a bill for an act relating to school funding; changes the base limitation; changes the local effort rate; changes the determination and certification dates relating to the distribution of aid, certification of certain budget limitations as prescribed, and duties of the Appropriations Committee of the Legislature; harmonize provisions; repeals the original section; and declares an emergency. That's all I have at this time, Mr. President.

HILGERS: Mr. Clerk, for an announcement.

ASSISTANT CLERK: Thank you, Mr. President. The Rules Committee will be meeting under the north balcony at 10:45; Rules Committee, north balcony, 10:45. That's all I have at this time.

HILGERS: Thank you, Mr. Clerk. Mr. Clerk, for new bills.

ASSISTANT CLERK: Thank you, Mr. President. LB288, introduced by Senator Walz, is a bill for an act relating to Tax Equity and Educational Opportunities Support Act; changes the determination and certification dates relating to the distribution of aid, certification of certain budget limitations as prescribed, and duties of the Appropriations Committee of the Legislature; harmonize provisions; repeal the original section; declares an emergency. LB289, introduced by Senator Walz, is a bill for an act relating to the Tax Equity and Educational Opportunities Support Act; redefines a term; and repeals the original section. LB290, introduced by Senator Machaela Cavanaugh, is a bill for an act relating to employment; it adopts the Paid Family and Medical Leave Insurance Act; creates a fund; change-- transfers funds; change provisions relating to experience accounts under the Employment Security Law; harmonize provisions; provides for severability; and repeals the original section. LB291, introduced by Senator Friesen, is a bill for an act relating to property taxes; changes provisions relating to property tax protests; provides an operative date; and repeals the original section. LB292, introduced by Senator Friesen, is a bill for an act relating to property taxes;

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changes provisions relating to partial payments of property taxes; harmonize provisions; repeals the original section. LB293, introduced by Senator Flood, is a bill for an act relating to the Public Service Commission; changes the number of districts and qualifications; repeals the original section; declares an emergency. LB294, introduced by Senator Flood, is a bill for an act relating to government; exempts certain state agency deputy directors and legal counsels from the State Personnel System as prescribed; and repeals the original section. LB295, introduced by Senator Wishart, is a bill for an act relating to the Nebraska Liquor Control Act; eliminates a provision that prohibits the sale of alcoholic liquor to a person while such person is within a motor vehicle; and outright repeals Section 53-178.01. LB296, introduced by Senator Hansen, is a bill-- Senator Ben Hansen-- is a bill for an act relating to state institutions; change provisions regarding access to records; harmonizes provisions; and repeals the original section. LB297, introduced by Senator Lindstrom, is a bill for an act relating to banking and finance; adopts the Nebraska Protection of Vulnerable Adults from Financial Exploitation Act. LB298, introduced by Senator McDonnell, is a bill for an act relating to labor; redefines public benefits as prescribed; changes provisions of the Employment Security Law relating to disqualification of certain aliens; repeals the original section. LB299, introduced by Senator McDonnell, is a bill for an act relating to firefighters; adopts the Firefighter Cancer Benefits Act; provides for an income tax exemption for such benefits; provides an operative date; and repeals the original section. That's all I have at this time, Mr. President.

HILGERS: Thank you, Mr. Clerk. Colleagues, we'll be adjourning at 11:30. It's about a 15-minute warning. If you've got bills, please get them to the front desk. Thank you. 11:30. Mr. Clerk, for new bills.

ASSISTANT CLERK: Thank you, Mr. President. LB300, introduced by Senator Slama, is a bill for an act relating to crimes and offenses; defines terms; changes provisions relating to justification of the use of force; provides for presumptions; harmonizes provisions; and repeals the original section. LB301, introduced by Senator Hansen, is a bill for an act relating to the Uniform Controlled Substances Act; redefines terms; changes drug schedules; and adopts federal drug provisions; changes a penalty provision; and repeals the original section. LB302, introduced by Senator Matt Hansen, is bill for an act relating to the Motor Vehicle Operator's License Act; changes provisions relating to operator's license revocation; and repeals the original section. LB303, introduced by Senator Matt Hansen, is a bill

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for an act relating to political subdivisions; provides a budget limitation exception as prescribed; and repeals the original section. LB304, introduced by Senator Matt Hansen, is a bill for an act relating to appropriations; appropriates funds to the Nebraska Commission on Law Enforcement and Criminal Justice for the enforcement of law enforcement officer employment-- employment restrictions. LB305, introduced by Senator Erdman, is a bill for an act relating to the Game and Parks Commission; changes provisions relating to appointment and removal of the commission secretary; and repeals the original section. LB306, introduced by Senator Brandt, is a bill for an act relating to public assistance; provides eligibility requirements relating to the federal low-income home energy assistance program administered by the state; provides duties for the Department of Health and Human Services; and declares an emergency. LB307, introduced by Senator Pansing Brooks, is a bill for an act relating to juveniles; changes provisions relating to waivers of counsel; requires appointment of counsel; provides a duty for the Supreme Court of Nebraska; harmonizes provisions; repeals the original section. LB308, introduced by Senator Pansing Brooks, is a bill for an act relating to juveniles; it creates a fund; provides for grants to offset the cost to counties of providing legal counsel for indigent juveniles; requires reports; requires juvenile indigent defense filing fee; harmonize provisions; provides an operative date; and repeals the original section. LB309, introduced by Senator Clements, is a bill for an act relating to civil rights; adopts the Assistance Animal Integrity in Housing Act; provides for disciplinary action for violation of such act; harmonize provisions; repeals the original section. LB310, introduced by Senator Clements, is a bill for an act relating to revenue and taxation; changes inheritance tax rates and exemption amounts as prescribed; harmonize provisions; repeals the original section. LB311, introduced by Senator Vargas, is a bill for an act relating to the Nebraska Liquor Control Act; redefines a term; change provision-- provisions relating to a microdistillery license; repeals the orig-- original section; declares an emergency. LB312 is-- introduced by Senator Sanders, is a bill for an act relating to cemeteries; changes cemetery association membership eligibility and recordkeeping requirements; and repeals the original section. LB313, introduced by Senator Sanders, is a bill for an act relating to revenue and taxation; changes provisions relating to late applications for homestead exemptions; harmonize provisions; and repeals the original section. Additionally, Mr. President, announcements: The Business and Labor Committee will hold an Executive Session in Room 1510 on Wednesday at 11:00; Business and Labor, 1510, Wednesday, at

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11:00. Additionally, the Rules Committee will hold an Executive Session Thursday at 1:00 p.m. in Room 5-- in 1525; Rules Committee, 1:00 Thursday, in 5-- 1525, excuse me. The Nebraska Retirement Systems Committee met this morning and selected Senator Brett Lindstrom as their Vice Chair. The Rules Committee has selected Senator DeBoer as their Vice Chair. Series of name adds: Senator Day to LB5, LB6, and LB7; Senator McCollister to LB8; Senator Day to LB10; Senator McCollister to LB11; Senator Day to LB11 [SIC], LB14 and LB15; Senator Hunt to LB20; Senator Day to LB20; Senator Hunt to LB44, LB45, LB46, LB48, LB49; Senator Blood to LB67, LB68, LB69; Senator Hunt to LB72, LB87, LB88, LB89; Senator Matt Hansen to LB93 and LB94; Senator Hunt to LB97 and LB107; Senator Matt Hansen to LB108 and LB109; Senator Hunt to LB114, LB116, LB117, LB119; Senator DeBoer to LB120; Senator Hunt to LB130 and LB132; Senator Lowe to LB173; Senator Brandt to LB235; Senator Lindstrom to LB236; Senator Arch to LB247; Senator Brewer to LB254; Senator Hunt to LB255; and Senator Ben Hansen to LR3CA. Additionally, Referencing will meet upon adjournment in Room 1520-- 15-- 1113; Referencing, upon adjournment, 1113. Finally, Mr. President, I have a motion by Senator Flood to adjourn until Wednesday, January 13, 2021, at 10:00 a.m.

HILGERS: Thank you. You've heard-- colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. We are adjourned.