

January 13, 1981

this last rule change is found on page 23 and on several pages following that. I would like to ask your indulgence one last time. A kind of a bad situation in that this happens to be a long rule change to hit you with at this late hour in the afternoon but it is I think probably the least controversial one of the ones that we have discussed so far. It has to do with investigating committees and the functioning of investigating committees. Essentially we don't have any good procedure at this time to outline how investigating procedure works, investigating committee works, and more importantly, we have no safeguards set up for those who are subpoenaed by investigating committees. To give you a little bit of background this rule again came from the interim study committee, the LR 168 Committee of two years ago. It was approved by that committee. In fact it was Senator DeCamp on that committee who asked the subcommittee to look into developing some criteria for investigating committees and it was at his request that we did so. In addition to the LR 168 Committee, the Rules Committee of the Legislature has approved of this rule change. Basically it does not represent so much a change in the rules as it represents an elaboration of the implicit powers of the Legislature for purposes of allowing us to use that power. Right now because of the lack of safeguards with regard to the operation of an investigating committee, there really is no, in my opinion, constitutional way that we can go about using it. So the basic unchanged rule is this; that every committee, every standing committee, has the power to be an investigating committee, and it gains that power virtually by taking the action of issuing a subpoena requiring the testimony or the production of documents from one or more individuals. So when that act is taken, the committee becomes an investigating committee. Okay, obviously before...we don't want our committees going around doing this very often and so there are a number of safeguards built into the rule that have to be followed before any committee becomes an investigating committee, before it can issue a subpoena. First of all, the committee itself has to make the determination that there is no other method to secure the information. In other words it is a last alternative procedure. In addition to that it also has to make the determination that the matter is important, it has to determine that the matter is of primary importance to the people of the State of Nebraska. Thirdly, a majority vote of the members of the committee is required to issue a specific subpoena. So all that the committee itself has to do all three of those things in order to issue a subpoena, then in addition to that and after that, it has to have the approval of the Executive Board to issue a subpoena in connection with any specific matter. So those are the safeguards built into the system. That is the basic system. Then all of the bulk of the rule that you see built in really has to do with