

JANUARY 13, 2005

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January 13, 2005

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our acting chaplain this morning is Senator Smith. Senator Smith.

SENATOR SMITH: (Prayer offered.)

SENATOR CUDABACK: We thank you, Senator Smith, for doing that for us. We appreciate it. I call the seventh day of the Ninety-Ninth Legislature, First Session, to order. Senators, please check in. (Visitors introduced.) Record please, Mr. Clerk.

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

SENATOR CUDABACK: Thank you, Mr. Clerk. Any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR CUDABACK: The first agenda item will be adoption of temporary rules. Senator Hudkins.

SENATOR HUDKINS: Thank you, Mr. President. I move that the rules, as now in our possession, be adopted for today only, Thursday, January 13, 2005.

SENATOR CUDABACK: You've heard the motion offered by Senator Hudkins to adopt temporary rules. All in favor of the motion say aye. Opposed to the motion say nay. The temporary rules are adopted. Any messages, reports, or announcements, Mr. Clerk?

CLERK: Mr. President, a Reference report referring LB 301 through LR 16CA. Senator Hudkins announces that Senator Thompson is selected as Vice Chair of the Rules Committee. And I have a hearing notice from the Judiciary Committee, signed by Senator Bourne. That's all that I have, Mr. President. (Legislative Journal pages 213-215.)

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SENATOR CUDABACK: Thank you, Mr. Clerk. Mr. Clerk, new bills, if you wish...care...

CLERK: Mr. President, new bills. (Read LB 419-420 by title for the first time.)

Mr. President, I have received a communication from the Governor. (Read message from the Governor.)

Mr. President, with regard to that, new bills. (Read LB 421-433 by title for the first time, Legislative Journal pages 216-220.)

SENATOR CUDABACK: Mr. Clerk, next agenda item.

CLERK: Mr. President, I have a motion on the desk from Senator Hudkins.

SENATOR CUDABACK: Senator Hudkins, you're recognized to make a motion.

SENATOR HUDKINS: Thank you, Mr. President. I move to adopt the permanent rules for the...as now in our possession, as permanent rules for the Ninety-Ninth Session...for the Ninety-Ninth Legislature, First Session.

SENATOR CUDABACK: Thank you, Senator Hudkins. You've heard the motion to adopt the permanent rules. Mr. Clerk.

CLERK: Mr. President, I have no proposals from the Rules Committee. I do have two amendments. Senator Schimek would offer the first amendment to the rules. Senator Schimek's proposal is found on page 198 of the Legislative Journal.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Schimek, you're recognized to open on your motion to amend the permanent rules.

SENATOR SCHIMEK: Yes. Thank you. Mr. President and members, I rise to ask for your support to amend Rule 3, Section 5(c)(ii). And, as the Clerk mentioned, it is in your Journal book. And I'm just going to read it, just so that everybody hears it and

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is thinking about it. But the rule change is, "The Executive Board is authorized to exercise jurisdiction over legislative bills and resolutions, including constitutional amendments,"...and that's the new language..."and hold hearings regarding such legislation when the issue presented by the legislative bill or resolution is one involving: a) the internal operations of the Legislature as a whole or in part or b) litigation or potential litigation wherein the Legislature or its members are parties." And it crosses out some existing language, and then says, "Such legislative hearings shall comply with the provisions in Rule 3, Section 13." Now, this is not a new issue. This is actually an issue that I have pursued several times on behalf of the Government Committee. And the problem is, and the reason for the rules change, is that in the past few years, the Executive Board, according to a rule change we made back in 1993, has been referencing more bills to itself for public hearings. And that all came about in 1993 because the Legislature got involved in an argument with the State Auditor about phone records. And those of you who were here will certainly remember that argument. And as a result of it, there was some potential for litigation between the Legislature and the Auditor. And at that time, the Executive Board Chair, Tim Hall, suggested that the Executive Board needed to handle those issues because they were confidential, "litigative" kinds of issues. And I couldn't have agreed more. I thought the Executive Board did need to do that. Now subsequently--and I don't remember the exact year, I think it was 1993 also--we did pass the rule, that is in the Rule Book now, that basically said that the Legislature...or the Executive Board could take bills that are of general import to the legislation...to the Legislature and its operations as a whole. So...but if you look at the green handout that I just gave you, you'll see that...we went back to 1988, because that's when I started in the Legislature, and that's all the institutional memory I had. But from 1988 to 1992, there were no bills referenced to the Executive Board. Then, starting in 1993, you'll see there were five bills, and those all pretty much involved the audit and the State Auditor. Then, in 1994, the next year, there were no bills referenced. By that time, I believe, the whole issue of the State Auditor was either resolved or almost resolved. Then, in 1995--and coincidentally, that's the year that I went off

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chairing the Government Committee, and I didn't really quite realize what was going on internally in the Government Committee, and externally, perhaps, as well--but in 1995, you see there were six bills that were referenced to the Exec Board, which I argue probably could have and should have come to the Government Committee, although I haven't looked them all over. There might be still some Auditor issues left there. Then, in 1996, there were two bills; 1997, there were a group of bills, you'll see about eight of them; in 1998, there were four; in 1999, there were one, two, three, four, five, six, seven, eight, nine bills that went to the Exec Board, which I would have argued could have gone to the Government Committee. Then the pinkish, orangish, salmonish, whatever it is, sheet starts with the year 2000. In that year there was only one bill; in 2001, there were four; 2002, there were five. And then, in 2003, there were a whole slew of bills that went to Exec Board. In 2004, there were six bills. And in 2005, so far, you can see there have been quite a few bills that have been referenced to the Exec Board. Now, one thing, especially for new members, that needs to be considered is we have what we call standing committees of the Legislature, and then we have select committees and special committees. And it's the standing committees that usually hear bills and hold the hearings, and advance or not the particular bills. So this has been kind of a little bone of contention, I guess you would say, for a few years now. And the Government Committee at one time signed a letter to the Exec Board regarding this issue. And I guess over the years we've gone to the Exec Board and asked them to rereference bills. This year, there have been three so far that I think are real obvious bills that should have come to Government Committee. There's a whole bunch of others that I would argue that historically and traditionally the Government Committee has handled. But I'm willing to make some concessions and say that, yes, the Exec Board probably now has been dealing with a few issues which they should probably keep dealing with. I don't want to be a hard-nose on this. But the point of bringing this to the floor is that I think we need a better definition, a better way of working through the referencing. There needs to be a clear line, perhaps, to the referencing procedure. Now, I think the Government Committee is the one that is primarily impacted by this. But again, we have to think

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about what's going to happen in three or four years from now, when we have all new people...or, well...yeah, all new people in the Legislature with no historical background on this. Now, for those of you who are new, the Exec Board is the referencing board. They reference all bills. And so they're in the position of referencing things to themselves as they see fit. And they do a good job. I've been on the Exec Board. And I know it's hard, because they have to reference in such a short period of time, over a noonhour; they have only one-liners to go on. And so it's often difficult to reference. And so I believe that we need to think about this a little bit more, and we need that clear definition. There's another sheet that I would like to have handed out--and it already has been, I guess--and that's the blue sheet. And this is the sheet that I asked my staff to prepare for the Rules Committee. And it shows on the first page the bills that went to Exec Board that very clearly involve internal operations. The second sheet talks about bills that were referenced to Exec Board that I believe, and I think some of the Government Committee members in the past have believed, belong within the jurisdiction of the Government Committee. And I would also say to you that by the time you get over to the third page,...

SENATOR CUDABACK: One minute.

SENATOR SCHIMEK: ...there may be a few bills on that third page that you could certainly argue both ways. I...that's the problem with this; it's not clear as it could be. The one way we could make it clearer is to say no bills should be referenced to the Exec Board except bills that have to do with litigation. I mean, that's the only way I can think of you could make it really clear. Then there are a list of about four other bills on that sheet that talk about some of the bills and resolutions referenced to Exec Board which you could argue about, which could be...or they could go either way. The issues so far this year we've asked to have rereferenced, one is a cemetery issue for veterans. And we just dealt with that last year in Government Committee. It was Senator Paul Hartnett's bill, and you may remember it came to this body. This year, it was referenced to the Exec Board. Second bill was a bill involving county government, which, of course, county government is

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always...

SENATOR CUDABACK: Your time is up, Senator Schimek.

SENATOR SCHIMEK: ...considered by the county government. And the last one is the Administrative Procedures Act. Thank you, Mr. Speaker.

SENATOR CUDABACK: Thank you, Senator Schimek. You've heard the opening on the amendment offered by Senator Schimek to the committee...rules offered by Senator Hudkins and the committee. Open for discussion on that amendment offered by Senator Schimek. Senator Hudkins, followed by Senators Engel, Smith, and Schimek. Senator Hudkins.

SENATOR HUDKINS: Thank you, Mr. President and colleagues. Just for your information, Senator Schimek's proposal was heard by the Rules Committee. We had our public hearing on that, don't even remember what day it was, a few days back, and we rejected that proposal. It was indefinitely postponed, by a vote of 3...4 to 1. So, just for your information, we did discuss it and we did reject that idea. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Hudkins. Senator Engel, on the Schimek amendment.

SENATOR ENGEL: Mr. President, members of the body, I'm going to keep my comments brief this morning on this particular rule change. I think Senator Schimek is sending a very sincere message that she does not like some of the referencing decisions we've made over the past 12 years. And that's fine, and I certainly understand her feelings. But referencing is not an exact science, but the Reference Committee makes its decision in as fair and impartial a manner as possible. And when a decision is made that isn't taken well by the other folks who are involved, there is an avenue to ask for a rereference. We have had many, many of those, and Senator Schimek herself has done that, and I'd like to say successfully in many cases. But if the member still does not like this decision, they can do what Senator Schimek has done this morning, is bring it to the floor. So it's never...the door is never closed once the Reference

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Committee has acted. But I'd like to have...ask that you support the Rules Committee in its decision to indefinitely postpone this rule change. And I'd like to make a couple comments as far as...in the last 12 years, as far as the...what the Referencing Committee has done. Now I haven't gone back to 1995, but I have 1997, the Referencing Committee did introduce, I think, it's quite a page here, probably 17 or 18 bills. Most of them were constitutional amendments. But that was the year that the Constitutional Revision Committee had met. This past year, 2004, one, two, three, four, five, six were referenced to us. Five of those were constitutional amendments, and one was to create the State-Tribal Relations Committee, and what that was, to set up a committee of legislators, which kind of falls into our purview. So we don't refer that many bills to ourselves. We're not looking for more bills to hear. So I think, as far as I'm concerned, let's leave the...let's leave the rules as they are. Like I say, it was "1PPed" in Rules Committee, and I certainly agree with their decision. Thank you very much.

SENATOR CUDABACK: Thank you, Senator Engel. Further discussion on the motion offered by Senator Schimek. Senator Smith, followed by Senator Schimek.

SENATOR SMITH: Thank you, Mr. President and members. I am approaching this issue with an open mind, and looking over the subject matter. And as a former member of the Government Committee with Senator Schimek, I do share her concern. And for that reason, I rise in support of her efforts. I look down the list, and knowing that Senator Schimek and I disagree on many issues, especially some of the issues here on the list that have gone to the Exec Board or have been referenced to the Exec Board rather than Government Committee, I don't mind the fact that Senator Engel is chairing the committee that's hearing some of these bills. But nonetheless, we do have an issue here that is worthy of a great deal of discussion and consideration by the body. The trend is troubling to me, where it used to be no bills at all, then it starts out with one, and then...and grows over the years. So that's the trend that is disconcerting to me. And I think that this is certainly worthy of further discussion and consideration, and I hope a favorable

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consideration. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. Senator Schimek, on your amendment, followed by Senator Beutler and Senator Brown.

SENATOR SCHIMEK: Yes. Thank you, Mr. President and members. I didn't quite complete what I wanted to say on my opening remarks, so I turned my light on again. I really want this to be a discussion this morning. I don't want it to be a them-against-us kind of fight. I just want it to be a discussion. I want people to be aware, and especially new people. We have eight new senators this year, who need to be aware of how this process works, and that problems are not always black and white. And this is one of them I don't think is all black and white. But I think we could do better than we're doing. And I think that, you know, that I would like to hear somebody on the Executive Board say, yeah, we understand why you're concerned, we understand that the list is growing, and maybe...you know, maybe we could sit down and work on this a little bit. I just want to bring it to the attention of the body. Now, I know that Government Committee is not the only one that has bills that it thinks is misreferenced. And I agree with Senator Engel, there are certainly many times when we do rereferencing. But I think Government Committee is particularly affected. And it just gets so that it seems like we're always sending letters up to you, Senator Engel, and I'm not sure that that's the way to do it. I know that there's sometimes not much discussion on referencing. And sometimes you do have to go past the one-liner, and I don't know how we do that. I don't know how you solve that, because there's not enough time for Exec Board members to do that. And I know that's a problem, and I appreciate it. But I still think that we need to be a little bit clearer in our distinction between issues that go to Exec Board and issues that go to Government Committee. As I said in the beginning, I think it would be a lot easier if we just said anything involving litigation goes to Exec Board; everything else involving government goes to Government Committee. That's the way it used to be historically. But I don't want to go there, because I know that's a losing battle, for sure. What I'd like to do is try to make sure that bills involving issues

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such as some of them that we've had to ask to have rereferenced this year, it's clearly understood that these are Government Committee bills. And it's not that we need more bills in Government Committee. We usually have a pretty full agenda. I don't mean that. And the other issue that I haven't mentioned is that the Exec Board is somewhat handicapped in the hearings that it can have, because they have to have them over the noonhour, and they have to be done fairly quickly. And I know, sometimes when I've had bills before the Exec Board, you know, it's really a rushed affair, from my perspective, because I'm rushing around, as are the Executive Committee members, who are missing their lunch hour. The public has to come in over their lunch hour, which is maybe not that big a deal. Maybe they'd rather come in over their lunch hour than other times. I don't know that. But I think standing committees are better equipped to hear these different issues than is a committee which does not have a regular place on the hearings agenda. But having said that,...

SENATOR CUDABACK: One minute.

SENATOR SCHIMEK: ...again, I'm not going to fight the fact that there are some bills that are going to Exec Board. I just want it to be a lot clearer, and I want the Exec Board to maybe take a little bit more time with some of these issues, if they possibly can. So anyway, I appreciate Senator Smith's remarks, and I think that he understands the frustration that the committee has had from time to time. Thank you.

SENATOR CUDABACK: Thank you, Senator Schimek. Senator Beutler, followed by Senators Brown, Janssen, Erdman, and Engel.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I think a debate of this nature is always helpful, to help us see our own processes and put in perspective our own processes. The seeking of clarity is always something that we should seek for. The difficulty in this instance...and I'm rising in support of the current law. The difficulty in this instance is that Senator Schimek seeks a degree of clarity that simply cannot be. The basic, fundamental reason why it cannot be is because each of our committees does not have, in our rules, a

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definition of its jurisdictional boundaries. For example, what is the difference between something that goes to Urban Affairs and something that goes to the Revenue Committee? Neither...only tradition defines which bill has gone where, and it's a very, at times, arbitrary decision. For example, in that instance, you may have 60 pages of program that relates to a municipality that would normally go to the Urban Affairs Committee. But if there's one little provision in there that raises the sales tax or the income tax to fund that, it's not going to go to the Urban Affairs Committee; it's going to go to the Revenue Committee. How do you define the Government Committee? Does the Government Committee include all governments? Does it include the municipalities that currently go to the Urban Affairs Committee? History has defined many of these decisions that are made at the Executive Board level, and there are other factors that, from time to time, come in. In the process, for example, Joanne, the bill drafter, Joanne Pepperl, is the one who gives us an initial recommendation. She comes in with the list and says, the bills should go here, here, here. And that's based on tradition, and oftentimes the Executive Board itself raises questions about, well, should it really go there? It's six of one and half a dozen of another. It happens all the time. And we try to make the best decision that we can. And frankly, sometimes, historically, other factors have come in. For example, sometimes, for one reason or another, a particular committee will become overloaded with bills and another committee will have fewer bills. Now, we can't just willy-nilly transfer bills from one committee to another. But if it's a situation where it's six of one and half a dozen of another, in a logical sense, we probably might give the bill to the committee that has the time to do the work. The Executive Board, like the committees themselves, their membership is chosen from across the spectrum of the Legislature, equally from all districts. And the job that has been given to the Executive Board is to defend the Legislature and to work with those things that deal with the Legislature as a whole. I would argue that Senator Schimek's amendment, by referring to the internal operation of the Legislature, constricts that too narrowly. Term limits, legislative pay are two things that have gone to the Executive Board, the only two things that have consistently gone to the Executive Board,...

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SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...other than strictly internal pay scale things, or something like that. And I would argue strenuously that those are things that go to the vitalness of the Legislature as a whole, as an institution. It's the job of the Executive Board to protect that. Those bills are rightly referred there. And this, under this new amendment, if it's adopted, they would not be referred there. The Government Committee has a whole load of bills this year. They have plenty to do. It seems to me it's unnecessary to further restrict the Executive Board and give more work to the Government Committee, especially when what's going on between the Government Committee and the Exec Board in this instance is no different than what goes on between one committee and another. We get requests for rereferencing constantly, every referencing session, half a dozen to a dozen of them. Most of the time, we rereference in accordance with agreements between two committee Chairs, or we reconsider our decision, more often than not, that we'll change it. I don't think there's been any sort of arrogant or imperial Executive Board here. I hope you don't think that.

SENATOR CUDABACK: Time, Senator Beutler.

SENATOR BEUTLER: And I think the present rule serves us well. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Brown, on the Schimek amendment.

SENATOR BROWN: Mr. President, members of the Legislature, I rise to support the amendment. I am a member of the Government Committee, but I want to say that I don't really even think that this is about the Government Committee or about the Executive Board or about referencing. I think it's more a decision about what our institutional processes should be. And I don't think it's jurisdictional, necessarily. The question really is, is the Executive Board set up to be a standing committee that handles bills, or is it set up to be an internal administrative committee primarily that in some instances would take on

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responsibilities, as Senator Beutler just suggested, for those things that are about the common good of the Legislature? And that should be...should take place only in exceptions, rather than as a matter of rule. If the Executive Committee is going to be a standing committee that on a regular basis hears bills, then I think it needs to be restructured in when it meets and how it meets. And it also needs to...and then we need to look at the referencing function and whether you have this committee, that hears bills, referencing bills to the other committees. And so it just poses some institutional questions for us. And it's not...to me, it's not about the particular instances that have been cited, although it shows a pattern that poses issues for us to determine institutionally whether we want to change the setup. It's not about any particular bills and whether they were referenced to the Government Committee. It's not even really about the Government Committee. It's really about our own structure, and whether it's serving us...it will continue to serve us well, and whether the very committee that is doing...that is making the decision should be...in terms of referencing, should be the referee on questions about their own committee's jurisdiction. And it very well may be that we wish to change the committee structure. And if that's the case, then I really do think that we need to look at when the Executive Board is meeting and whether that is the best...for the public, the best structure, when we have other...the other hearings that we publish to the public that we usually meet at 1:30. And so those are the kinds of things that I really think that we ought to deal with. And it may not be that we choose to deal with it right now. I mean, nobody may be in the mood to take up this amendment. And the amendment may not solve some of the issues that have been raised. And so I would just argue that if we choose not to take up the amendment right now, I really do think that we have to look at the structure of the Executive...the Exec Board, the jurisdiction of the Exec Board, and also whether having a multitude of bills going to the Exec Board and the structure that we have in place makes it easy for the public to participate in some of these issues. And so I would argue, for the future, that we really do need to look at...

SENATOR CUDABACK: One minute.

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SENATOR BROWN: ...that, and how referencing falls into that. This is not, in my estimation, a criticism of any of the decisions that have been made, but just whether the decisions that have been made have changed the essential nature of some of the committee structure. Thank you.

SENATOR CUDABACK: Thank you, Senator Brown. Senator Janssen, on the Schimek amendment.

SENATOR JANSSEN: Thank you, Senator Cudaback, members of the Legislature. You know, I've had the fortune of...good fortune, of being on the Exec Board, throughout the last 13 years, I think three times, if my memory is correct. I think it's something that should be passed around. I hope that every one of you in here would have the opportunity to serve on that committee sometime during your tenure here in the Legislature, even though it is only going to be eight years now. In doing the job that is expected of us on the Exec Board, it does take a lot of time. And we're allotted that one noonhour to do some work that, yes, Senator Schimek is right, it...they need to be looked at a little carefuller. But we go...in the past years that I've been on the Exec Board, we take the advice of the Revisor of Statutes, Joanne Pepperl. She will give you a brief history of where similar bills have went over the years. Joanne has been here a long time and does a great job. But we're going to...you're human, you're in a hurry, you're going to make some errors occasionally. And that's why you have the opportunity, if this is your bill or your committee that you think it should be referenced, to come to the Exec Board and plead your case. I think it's an open, very open committee. There are people that have been on that committee for years and years, and do have some institutional knowledge about what is...where those types of bills should go. So I believe that the process is working as well as it could, again, as much time as the committee is allotted. Actually, being on the Exec Board does help your waistline a little bit, especially during the months of the...when the feed bag is hung out. You miss a few meals, which is probably good for most of us. I believe that the avenues are there if you have a disagreement with the Referencing Committee. They're there. And as I say, you can come back and plead your case, even though the time is short.

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With that, Mr. President, that's the way I feel. I don't think at this time we need to change anything. Maybe we should, down the road, look at giving the Exec Board a little more time. I don't know where you'd squeeze it in. Our lives are so full down here that time is very important. So I believe we should let things go as they are and not rock the boat too much, until we find a better way to serve the body. Thank you.

SENATOR CUDABACK: Thank you, Senator Janssen. The issue before the body is adoption of permanent rules and an amendment to those proposed rules. Senator Erdman, on that amendment.

SENATOR ERDMAN: Thank you, Mr. President, members of the Legislature. It's encouraging, I guess, for me to hear some of the colleagues discussing the issue, Senator Brown pointed out, Senator Janssen pointed out, because I had a legislative resolution, LR 319, last year to examine our entire committee structure, to determine whether or not we're appropriately configured to where we'd be able to handle the subject matter that goes to the different committees, whether or not they have enough time. The Judiciary Committee continually has six and seven bills introduced, and a time limit just to get through them all, because of the subject matter. And so we had LR 319, and it's actually a piggyback on a proposal that was studied years ago, but it exactly did what some of the things that are being discussed. And it reviewed those committees that are being referenced bills, whether or not they have the appropriate time in order to hear the bills that are there. Now, I have the opportunity, or the dubious honor, maybe, of serving on four legislative committees. I serve on General Affairs, Ag, Health and Human Services, and Retirement Committee. And in addition to that, I've been selected by my caucus to serve on the Exec Board. I don't miss the lunches that I'm not attending, because I was responsible and I was selected to be on those committees. And I think that's what the Exec Board does, and that's what we're trying to do on the Retirement Committee. And the reason why LR 319 was introduced was because some of the issues that came before the Retirement Committee did not have enough time. And so I felt that it was important for the issue of retirement, which affects a majority of our employees, if not all of them, had an appropriate time and an appropriate setting. On the

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issue before us, with the Schimek amendment, it is a unique situation. As a new member of the Exec Board, we have discussed, at length, the first few days of referencing, whether or not a bill should go to Government or Exec Board, or whether or not those bills are in the right place once we've even referenced them. And we've even had discussions about bills after we've referenced them, and brought them back. And ironically, some of the bills that I voted to send to the Government Committee, Senator Schimek wanted to stay in the Exec Board; and some of the bills that I felt that probably should go there, they wanted in the Government Committee. And so I think there is a growing process in this body to determine where bills are appropriate and where they should go. But I think it's absolutely correct what Senator Brown and Senator Janssen points out, that if a committee is going to have the opportunity and to have hearings, they need to have the appropriate time in order to do that, so I don't discount that one bit. And I'm actually probably a little more flexible than some of the members of the board on whether or not there should be some extra guidelines added. Senator Schimek, I think, probably is seeking to clarify things. And I'm not sure that's as narrow as we should be. But maybe somewhere in between is somewhere where I would be, Senator Schimek. Because I do think, based on some of the discussions that we've had, both with the Exec Board and some of the members, that there probably does need to be some clarification. And that's something that we struggle with. We were actually here till 2:00 one afternoon, discussing whether or not bills should be referenced to the Government Committee. And Senator Chambers and I discussed a lot of that, and had some unique analogies. But, I mean, it's a serious discussion within the Executive Committee and the Exec Board. But I do think that where you're at is probably a little farther than I want to go. But I would be open to some middle ground there and trying to determine what that is. And if nothing else, I think that we as a Legislature owe it to ourselves and owe it to those who follow us to ensure that when they arrive here and that they're sworn in and they've been placed on committees, that they know that those committees have the ability to do the work that they're charged to do. And aside from looking at our entire structure, including when the Exec Board meets and how that works within the other committee structure, I think we're going to continue

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to have these types of discussions. So it needs to be more of a comprehensive view, in my opinion, than just amending the rule to limiting one group or another, because it's got to be more of a global solution. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Erdman. Senator Engel.

SENATOR ENGEL: Mr. President, I don't want to spend a lot of time again on this. But I'd just like to mention a few things. As far as...three or four things. One, as far as taking the time to hear the bill before us, I believe we've taken that time, and we haven't had any complaints, up till recent discussions. And if it's going to take more time, I think we'll find a way to take that time. But I've never had complaints before. Another thing, we meet at the noonhour. That's been tradition. That's the way it's always been. That doesn't mean it always has to be that way, but that's the way it's always been, because that's a time that we have free during the legislative day. So that's how that came about. But we do not hear a lot of bills. So it's not like we have six, seven, or eight bills to hear every day, either. Like, last year, like Senator Brown said, we were hearing a multitude of bills. Well, a multitude, is that more than one, or is that less than ten? Well, last year, it was six bills. So that...is that a multitude? I don't know. In my definition, it's not. So we have...we took the time to hear those bills last year, and we only took one or two during a day. And maybe some of them weren't controversial at all. Well, you can...that's how you judge how many bills you're going to take. So I think it's worked well this year. And then of all six bills that we heard last year, there wouldn't have been any one of them referred to another committee, Government or anyplace else. They're constitutional amendments and, like I told you, as far as this committee to study tribal relations. And that was just setting up the committee. It wasn't really anything else. So, with that, I'm finished for the morning as far as talking, but I do not support the amendment. And thank you.

SENATOR CUDABACK: Thank you, Senator Engel. Senator Schimek. And this will be your third time, Senator Schimek, outside of closing.

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SENATOR SCHIMEK: Thank you, Mr. President and members. I very much appreciate the discussion. And I appreciate the fact that the Exec Board has had some more lengthy discussions on this matter in recent days, too, and I thank you for that. Also, I have to tell Senator Erdman, I didn't really think those bills should go to the Exec Board. The one we're talking about, I think, is the State-Tribal Relations Committee. But that's what the existing rules say, that if it's internal operations of the Legislature, then it should go to the Exec Board. So I...in all fairness, I thought it should go to the Exec Board. I have to remind you that this Legislature operated for many, many years without the Exec Board hearing bills. I mean, this is a pretty new phenomenon. And it used to be that salary bills would come to the Government Committee. In fact, all other elected official salary bills come to the Government Committee. The exception is the Legislature's. And I don't know that...I mean, you could make an argument that that doesn't really affect the internal operations of the Legislature, or you can make an argument that it does, I suppose, that it allows more candidates to run, and makes for a better democracy, perhaps. But it's a little bit of a stretch, in my opinion. But having said that, I'm still willing to recognize that there are some bills that go to Exec Board. But I think...and thank you, Senator Brown, for putting this whole thing in perspective. She and I have talked about that on occasion, and it really is the issue. The issue really is, if you've got a committee that does the referencing, then should that committee hear bills? And if it should, should it not have a regular place on the committee legislative hearing agenda? I don't know. If you go back to the statutes, to the...or to the statutes involving the Legislature, it doesn't say anything in those statutes about hearing bills. It talks about things like...if I can find it here now, it talks about things...about personnel and that kind of thing. It says, for instance, in the first part, that the Legislative Council shall have an Exec Board which shall consist of blah, blah, blah. And then it says, the Exec Board shall supervise all services and service personnel of the Legislature and may employ and fix compensation and other terms of employment for such personnel, et cetera, et cetera. It says that they appoint persons to fill the positions of Legislative Fiscal Analyst, Director of

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Research, and Revisor of Statutes, et cetera, et cetera. It says that they, notwithstanding any other provision of law, contract to obtain legal, auditing, accounting, actuarial, or other professional services or advice for or on behalf of the Executive Board, the Legislative Council, the Legislature, or any member of the Legislature. Or, it says that by October 31, 2001, the Nebraska Retirement Systems Committee of the Legislature shall submit to the Exec Board a report on the design of a separate retirement system for employees. That was something that was added fairly recently. Nowhere in this does it mention that the Exec Board hears bills. It's more...

SENATOR CUDABACK: One minute.

SENATOR SCHIMEK: ...like the body that's supposed to see that this body runs effectively, and that it takes care of problems that occur; that it envisions problems that might occur; that, for instance, it envisions what's going to happen here in two years, and how do we adjust everything to that eventuality and to the further eventuality that in 2008 only a very few, just a handful of us, will still be here. I think those are the kinds of things that the Executive Board does. But if it's broader than that, then we ought to think about it more and decide some of the questions that I think Senator Brown raised so effectively. With that, Mr. President, thank you.

SENATOR CUDABACK: Thank you, Senator Schimek. Senator Stuhr, followed by Senator Chambers.

SENATOR STUHR: Thank you, Mr. President and members of the body. I was the member of the Rules Committee that did stand in support of Senator Schimek's amendment. I did this because I felt that it was important that we have the discussion. I agree with some of the previous speakers that...it was my concern that we are seeing a pattern, that particularly since about the 1990s, early nineties, of seeing more bills being referred to the Executive Board. I, too, looked at the statute and agree with Senator Schimek that it does look at the internal beings of the Legislature; that it is not a standing committee. Standing committees are where the bills primarily are referred to. There is a notice given to the public, and I don't believe that that

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is done with the Executive Board. It's not that I wholeheartedly agree with the amendment. I do agree with some of the previous speakers that I think it's important that we look at and investigate and really look at the Executive Board, the structure, and maybe continue to do and work on this area in the future. And I think this is going to be particularly important as we see term limits kicking in and we no longer have the perspective that...an historic perspective that we have now. So I just felt it's important that we have this discussion this morning, because it is an important area. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Stuhr. Senator Chambers, on the proposed amendment to the proposed permanent rules.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, the constitution empowers the Legislature to write rules governing its own operations. When people write rules, they may think what they're doing is saying one thing and accomplishing one purpose, but upon...as is said in professional football, upon further review, it will be shown that they have not clarified and they have not really even changed anything. When you leave a lot to interpretation and definition of those who are applying the rule, the rule is very elastic and it's whatever they say at a given time. Having the dubious distinction of being the target of more rules changes than any person in the history of the Legislature or any subject before the Legislature, I have demonstrated that when you put your best minds to drafting rules to stop me, you failed miserably every time. Successful operation of the Legislature is not found in the rules. At best, rules can serve as a type of guideline, a suggestion, or good advice when you're in an area such as we're dealing with here. If you look at the language of the proposed change, who is going to define what "internal" means? Internal operation, internal activity, any way we try to phrase it, what does that mean? Does it mean the day-to-day operation of the Legislature? Does it mean anything that involves what the Legislature does as a body? When you say, things that relate to the Legislature's operation in whole or in part, what does "in part" mean? I was able, through discussion on the floor of the Legislature, to have...help the Supreme Court of the United

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States strike down a so-called late-term abortion bill because of a term something like "substantial portion." And in discussing what that meant with the introducer of the bill, I was able to compile the record that I knew would be used by the court in striking down that law as being overly broad and too vague and affecting procedures that could not be outlawed by a Legislature. So I look at the words. I consider what they mean. And when you have an amendatory proposition, such as is before you now, read it and ask yourself, will this mean the same thing to everybody? If it doesn't, then there will be an argument. If there's an argument, somebody is going to resolve it if it relates to action that must be taken. The ones that will resolve it are those who sit on the Executive Board. I've been on that board, I don't know how long. It's been a long time. We will discuss why we think a bill should be referred to the Executive Board. Some will say yea, others will say nay. And we might discuss it for an hour. And after an hour, the yeasayers still say yea, the naysayers still say nay. So the way we resolve those matters is by voting. Voting is there because it's clear that you're not going to get unanimity very often. You might not be able to get consensus on a regular basis. So you have to have a process by which you draw the thing to a conclusion one way or the other.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: And if we vote by a majority to send a bill someplace, and it's not satisfactory, then those who disagree can come before the board and try to have it rereferred. I want to make a couple more points, so I'll turn my light on, and stop at this point.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Engel. And this will be your third time, Senator.

SENATOR ENGEL: I told you I wouldn't even do this, but I think a clarification is necessary. First of all, as far as the Exec Board referring bills to itself, it's...years ago, they didn't. But it's been...the last 12 years, they have been doing it. So it does have a track record. But secondly, just to clarify a point, and I've already talked to Senator Stuhr about it, that

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we do have to follow Section 3, Rule 13, as far as public notification. So we have to follow the same rules as every other committee. So, just a point of clarification. Thank you.

SENATOR CUDABACK: Thank you, Senator Engel. Senator Chambers.

SENATOR CHAMBERS: Mr. President and members of the Legislature, when you've been around as long as I have been, and you pay attention to things as I do, it becomes not too difficult to take a point that seems very profound when it's made and show that it really has no application and that there are other instances where the very item involved in that point will be defeated. And I'll give you an example. Senator Brown said that the Executive Board, which refers bills, should not be a committee that would hear the bills. Members of the Legislature, the Nebraska Supreme Court assigns cases that come up on appeal, either to itself or to the Nebraska Court of Appeals. Now, why should the Nebraska Supreme Court be allowed to take an appeal and assign it to itself and still hear the appeal? Because whether the court assigns it to itself or to the Court of Appeals means nothing in reality. So it might sound like something of significance has been said by asserting that if the Executive Board refers a bill it should not hear the bill. That has nothing to do with anything. Bills that come before the Executive Board do have a public hearing. They are processed in the way that bills are processed before other committees. What must be kept in mind is that those of us on the Executive Board do not cease to be members of standing committees. We know how the committee system works. We understand public hearings. We understand going into Executive Session. We understand crafting, adding, or rejecting committee amendments. We know how to take a vote to determine whether to kill a bill, whether to advance it to the floor, or whether to just hold it and let it die in committee. We are not mystical, strange, magical entities when we sit as members of the Executive Board. There's a verse that says something like this in the Old Testament: When a man dies--now, those who are ordinary people like me would say, when a sucker croaks--if he is filthy, let him be filthy still; if he is righteous, let him be righteous still. If we are dunderheads before we get on the Exec Board, we are dunderheads on the Exec Board. If we come

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down here with a thimbleful of brains, we're not going to have a bushelbasket full of sense just because we get on the Exec Board. We still will only have as much sense as can be produced by a thimbleful of brains. And having been on the Exec Board, I can tell you, without fear of contradiction, that we have had some people on that Exec Board who are not quite as intelligent as that pillar, to which I'm pointing, to my immediate left. And everybody knows this is the case. There is no qualification, based on intelligence, to get in the Legislature. That's why term limits are so foolish. I have always said that people who are voting have a right to send whoever they want to this Legislature, if it's a mule skinner. They know what they need. They know what they're looking for in a representative. Let them send whoever they want to.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: Brothers and sisters, a Legislature is never going to be peopled by perfect individuals. Rules are never going to be able to resolve every issue. In fact, I would defy anybody--and you still have time to do it this session--to draft a rule that will put me in a box and keep me there. All you do is stimulate me to find other ways to get around it and show how dumb the Legislature is, how foolish they are to have enshrined me in their rules. And I scoff at, mock, and taunt the white people in this state who have enshrined me in their constitution, and at the same time term limited all of the white people out of the Legislature. They have done what I never came here to do, and that's to destroy their Legislature. I have always played by the rules. They don't have sense enough to see that, because they're blinded by emotion and other things. This rules change, I think, has generated a good discussion. But I don't think we ought...

SENATOR CUDABACK: Time.

SENATOR CHAMBERS: ...to adopt it.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Schimek, there are no further lights on. You're recognized to close, if you care to.

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SENATOR SCHIMEK: Thank you, Mr. President and members of the body. I'd like to thank you for the discussion, and thank you for the input. I don't intend to take this to a vote. I don't think the language is perfect either. I don't think, Senator Chambers, that...or Senator Erdman either, I don't think this really solves the problem. We tried, and we tried to craft something. But I think perhaps that the whole issue does need further discussion. And I would be remiss if I let it go entirely at this point. I'm not going to let it go entirely at this point. All I'm going to do is say that, from time to time, it doesn't hurt to look at your legislative institutions and reevaluate them in terms of the present, or in terms of the past, however you want. And I think this is one of those times. Maybe we'll never change a single thing. But there is a pattern here, as someone said previously in the debate. And if we don't mind that pattern continuing, then I think it is good to look at the function of the Executive Board. And I believe that that has been pointed out very effectively here on the floor. So with that, thank you for your time, thank you for your comments, and thank you for listening. And, Mr. Clerk, I would like to pull the amendment.

SENATOR CUDABACK: It is withdrawn. Mr. Clerk, next motion.

CLERK: Mr. President, I now have an amendment to the permanent rules motion, offered by Senator Smith. I believe he has distributed copies to the membership. (Legislative Journal page 220.)

SENATOR CUDABACK: Senator Smith, you're recognized to open on your proposed amendment to the proposed committee permanent rules.

SENATOR SMITH: Thank you, Mr. President and members. I appreciate the consideration, the opportunity for consideration here, of an issue that I believe needs some discussion, needs some review, and needs, I think, some feedback. It's no secret that we have a big state. It's no secret that mileage costs a lot of money, and we all come from different parts of the state, and that technology is before us. Some technology is even

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behind us, I guess you could say, in the fact that we have a system for video teleconferencing available. It's recognized in statute in various ways. And we have the opportunity...I know that Senator Wickersham, when he chaired the Revenue Committee, chose to avail committee hearings over the video teleconferencing. And it is quite a commitment, certainly more of a commitment for constituents from the other end of the state, the area which I represent, to travel over 400 miles, one direction, down here to testify at a public hearing on various issues. I've tried a couple of times, with proper notice, not a last-minute effort at all, but a...with due notice, to establish a public hearing, various issues, one in the interim, more recently during session, to avail video teleconferencing to occur for a bill hearing. And it is an issue that can be accommodated, has been accommodated in the past, and I think needs to be looked at more frequently by the body. And that is why I am proposing to add a rule, that has limits to it, certainly, but it says, "No more than twice per calendar year, any member may direct a committee to broadcast a public hearing through live video teleconferencing to designated locations within the state, provided written notice of such directive is given to the chairperson of the committee holding such public hearing no less than three legislative days prior to the date of such hearing." There needs to be some notice. I know that it's a logistical concern of being able to set up the technology that is already available to us, but it does take some effort for staff to establish that and make it happen around the state. But I know that...and especially in these times where we have to limit testimony, I understand there are going to be limits. And I do not oppose those limits on testimony. But I think that something very reasonable, very accommodating, would be to allow folks from across the state, around the state, to put forth their testimony via video teleconferencing. I'm not asking that any policy decisions be made over video teleconferencing. I am merely proposing that public input be sought and given over video teleconferencing. So basically, a member, any one of the 49 of us, could request, up to twice per calendar year, that a hearing be placed on video teleconferencing. Mileage alone, for a trip from my district, is about \$340, depending on where you live in western Nebraska. Actually, you can fly now for less than that, which is a blessing; however, it varies what is

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accommodating and what isn't, of a schedule. But we have an opportunity to save taxpayer dollars here, in addition to accommodating logistical concerns, time concerns, and other issues of citizens from around Nebraska. I think that we can open up the access to Nebraska, open up our process, and allow folks to step forward, with time limitations, I support those time limitations, and we can be better off because of it. I'll never forget...and this is all in perspective, we always hear that everything is in perspective, but when I observed the process, as a page in college, and a member--and bless her heart for expressing this--but she stood up and said, out in western Nebraska, where I'm from--and it was 90 miles...approximately 90 miles west of Lincoln--and there's a vast state out there. And I know that there's been a more recent issue that has had hearings around the state. And I was told that hearings occurred in western Nebraska, in Mullen. And quite frankly, there's about three hours' driving time further west of there. And we still battle hard out in western Nebraska to make it to eastern Nebraska to put forth our opinion, to express our opinion, our concerns. But it's vastly different. And now, I'm kind of awaiting various discussions on uniformity across the state, and especially as it relates to room temperature and the climate, as we have seen in various proposals now facing...education issues. But I think we need to keep in mind that we have a big state, and that we can accommodate folks, especially, and especially when we already have the technology that I believe is underutilized because we don't seize the opportunity to use that. And I hope that you will look upon this with favorable consideration. Thank you.

SENATOR CUDABACK: Thank you, Senator Smith. You've heard the opening on the amendment offered to the proposed permanent rules. Mr. Clerk, motion on the desk.

CLERK: Mr. President, Senator Chambers would move to amend Senator Smith's request. (Legislative Journal page 221.)

SENATOR CUDABACK: Senator Chambers, you're recognized to open on your amendment to the amendment to the proposed rules.

CLERK: Senator, if I...just so you know, the members know,

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copies are being run. So it will be just a moment, but we'll have copies on the desk.

SENATOR CHAMBERS: Very good. Thank you, Mr. Clerk and Mr. President. Members of the Legislature, I don't think this is a good amendment that Senator Smith is offering. It is fraught with problems. And whereas I can understand what he's trying to do, I do not think it is practical or feasible. And I'm going to make a few general comments while the copy of my proposed amendment is being circulated among you. But if you look at the way Senator Smith has drafted this, any member may direct a committee. That means the member supplants the Chair. The member has taken over, and determines that the committee is going to broadcast a public hearing through live video teleconferencing to designated locations within the state. Who makes the designation? On what basis will the designation be made? If I happen to be one of these so-called pro-life senators and I've got a clunker of a bill, but I need it because I'm going to have to establish my pro-life credentials, so I say, I'm directing that the hearing on this bill before the Judiciary Committee be broadcast to whatever designated area in the state I need to shore up some of my support, naturally I'd oppose that, not just because of the subject, but I'm trying to give an example of how this can be misused. I have no idea which locations in the state will accommodate teleconferencing by video. Written notice would be given to the Chairperson no less than three days before this is to occur. So the member comes to the Chairperson and says, this hearing is going to be transmitted to locations A, F, K, N, Z, throughout the state, and there is nothing the Chairperson can do; there's nothing the committee can do. There is nothing anybody can do, because you will have turned the operation and control of the committee over to any member, at least twice in a calendar year. If that particular member is going to dictate which areas the teleconferencing shall be carried, suppose another member objects. It means nothing. Suppose the other member wants to say there are additional sites where it should be sent. That means nothing. The member who is given this carte blanche authority controls everything. That makes no sense to me. Western Nebraska is never going to be treated like eastern Nebraska. Where you have the preponderance of population,

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you're going to have the preponderance of decision making and power. Where you have the most economic activity is where you're going to have the decision makers whose decisions will affect all of the state. This rural-urban split exists all over the country, and it is never going to be resolved. There will always be parts of a state like Nebraska which is going to be left in the dust. I read something in the paper the other day about a one-room school which apparently is also the only school in a district. And now they've got to pay \$15,000 in back taxes and penalties to the federal government, because they blundered in paying their taxes. So you've got a school district that comprises one building, which has one room, which has eight pupils. That's the kind of state Nebraska is, and I do not believe the same consideration should be given to anachronistic circumstances such as that, as will be given to districts that have many schools, many students, and really can qualify as what a school district ought to be, in my opinion. So others have different opinions, and we hash those things out on the floor of the Legislature. But we need to keep in mind what is going on in that area known as western or outstate Nebraska before we just start getting nostalgic and saying, well, they say they don't have this out there; they've got it in Omaha; give it to them out there. What Senator Smith and a lot of people from outstate Nebraska, and many of those who voted for term limits to get rid of me will not realize is that there is a charge on people's phone bill to help make telephone service available to outstate Nebraska. And that wasn't done by an outstate senator. It was not done by a farm sector senator. It was not done by a rural senator. It was done by the city slicker, namely moi, whom they hate. There was an entity designed to look into rural economic matters, and it was going to be abolished. And two urban senators got busy, especially me, but Senator Schimek played an important role in it, too, to prevent that abolition from occurring. When the Ag Committee was going to be abolished and the Chair of the Natural Resources Committee, which was a farm area senator, and the then-Chair of the Ag Committee, who was a farm area senator, had come together and weren't going to do anything about it, and I talked to both of them right near the front of the room, and I said, what are you going to do about this, they said, well, the train is on the track and we're not going to get run over. I said, now, you all are the ones

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who always stand up here and yammer about agriculture being the main economic engine in this state, and you're going to let the Ag Committee be abolished? What is the symbolism? What is the message you're sending? And I said, if you men are afraid--I said "you guys," but I'm trying to be, you know, respectful in what I say now--I said, if you guys say you're not going to do anything because the train is coming down the track and you're not going to get in front of it, I said, not only am I going to get on the track, I'm going to stop the train and derail it. And I did it--rescued the Agricultural Committee from oblivion in an agricultural state because the agricultural representatives didn't have the heart or strength of character to do it. There are so many things I've done around here that have rescued these people and saved them from themselves. I'm kind of looking forward, brothers and sisters, really, to getting out of this Legislature in four years. And I will watch things go to pot. And when people out in those rural areas start to having things happen to them, and they say, why; it didn't used to be this way; all these bad bills were not passing; they were not walking on us; then somebody might say, well, you know, there was a fellow down there that we didn't like. You know what my job is, as I perceive it, as a state senator? Not to react to the idiocies of people or to the ignorance of people, but to inform myself on the issues and then use my best judgment to do what I think is in the best interest of the state. I'm a state senator. So I do many things that are going to be beneficial to people and segments of the state where I am hated more than the plague. Because they will take action to try to get rid of me, but they will not take action to address the plague, so they hate me worse than the plague.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: What Senator Smith is trying to do, based on my view of it, is to suggest that there are areas of the state which are not being served to the same extent as other areas. And what I am suggesting is that it's going to always be that way. But since I have about one minute or less, I would change the word "directive" to "request," and the word, in the first sentence, where it says, "any member may direct," to "any member may request." I still am opposed to it. But I wanted to offer

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that amendment to have a chance to put the discussion in the direction I think it ought to be going. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the opening on the amendment offered by Senator Chambers to the Smith amendment to the proposed rules. Open for discussion. Senator Bourne.

SENATOR BOURNE: Thank you. Thank you, Mr. President, members. Senator Loudon, it's like deja vu all over again, isn't it? Say, I want to make a couple comments about the rule. First of all, I think Senator Chambers' amendment improves it, but it does not go far enough. I do like the language that he's added about requesting a Chair rather than compelling or forcing a Chair to do this video conferencing. But again, I think there are several other problems. And I want to say out...or up-front, Senator Smith, I agree with the concept, and I think that any opportunity that we can take or use to bring the Legislature to the people, I agree with that. And I'll tell you what I...I intend to take the Judiciary Committee out to western Nebraska this next interim, and so...because I think that's a really important thing that we should be doing. I have some troubles with the bill, even though I agree with the concept. Or, excuse me, I have troubles with the rule. I'm concerned about the cost. I don't believe that teleconferencing is free, so I'm...if Senator Smith would listen to these questions, and then on his next opportunity to speak, if he would address some of those. As I understand it, both the transmitting and the receiving ends of a teleconferencing facility, they have to have the equipment, and I'm concerned that what if a senator requests that we teleconference to a particular town that doesn't have the equipment. Does that mean that the state then would have to pick up the costs of installing that equipment? I'm not sure. And I don't believe that you can just teleconference to a TV. I'm not sure exactly how that works either, and hopefully Senator Smith will be able to help us with that. I'm also concerned with who here in the Legislature, whether it be the Clerk's Office or what, has the responsibility for doing this, and were they consulted. Particularly, I'm wondering if three legislative days prior to the hearing is sufficient notice for

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our staff people to set up a teleconferencing. I don't know if that's an adequate notice. I think that the hearing notices are actually some time. I think they're even a greater time period than that. I'm not quite sure. But I am concerned about that, that whether or not we've consulted with our folks here in the Capitol and if three days notice is sufficient. I do know this can be done. When we did the redistricting, we teleconferenced the special Redistricting Committee meetings throughout the state, as we should have, and I do believe, again, that any opportunity that we can bring the Legislature to the people, we should do that. I'm also concerned with the number of requests per member. If you have two requests from each member and there's, say, on a particular committee, there's seven members, that's 14 hearings that are transmitted annually. Actually, it'd be 28, because twice a calendar year a member can direct. So that'd be...say, on a committee with seven members, it'd be 14. Right, 14 requests? Is it 14 or 28? Anyway, it's a number of requests. I also want to know if we can do this now. Can a member request a teleconferencing now to be transmitted out to, say, Gordon, Nebraska? Can that be done now? Can a member request that? And, if they ever have requested it, has it been denied? And then I'm also concerned about teleconference to a designated location. As I read that, that could be anywhere. That could be the local pub. That could be my house. And, again, I think that Senator Smith is trying to direct it so that we have teleconferencing to maybe community centers, social centers, things like that, and I think that we should be doing that. But I do think there's problems with the drafting of the rule. So, Senator Smith, hopefully you've been listening to some of those concerns. If you'd like the balance of my time to respond to any of those, I would yield that to you.

SENATOR CUDABACK: Senator Smith, you have about one minute, if you care to use it.

SENATOR SMITH: Thank you, Mr. President. Yes, I'll try to be quick here. In the interest of being collegial, I guess that's the term, now, I want to be open-minded on this and I, although I wouldn't have my way if I accepted the Chambers amendment, I am looking upon that favorably. Senator Bourne, you raise some questions, and logistically we have the capability now. I'm not

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looking for anything different than that. And it says designated locations. That...I mean, it's only possible to have the designated locations, and you can't designate a location without equipment. I mean, that's just the way it is. And when you talk about...or there was perceived misuse perhaps, that's why I wanted limits to it--you know, twice per calendar year per member. So that would be special sessions and everything. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith and Senator Bourne. Senator Raikes, on the Chambers amendment to the Smith amendment.

SENATOR RAIKES: Thank you, Mr. President. Members of the Legislature, I am going to second some...many of the comments that have already been made again and to remind you, commend Senator Smith for raising this issue, it is something I think we need to talk about; actually, to support the Chambers amendment, because I think that improves it, although I think if you do the language of the Chambers amendment, I'm not sure there's a need for a rule change, because I don't think you would need a rule that allows you to request something. I think that that's probably there without any change in rules. I know that...and a couple of things I'll try to add my impressions or opinion to, one is that Senator Smith referred to the Revenue Committee using this in a hearing setting, and that's true, but it was an interim hearing. It was not a regular session hearing. The other thing is, when it says here "any member," I don't think that means a member of that committee. I think that means any member of the Legislature, so that instead of the possible numbers that Senator Bourne referred to, it'd be a much bigger number. Another practical aspect, in addition to all those raised about where you're going to have the sites and how they're going to be operated, is the difficult balancing you have to do in committee hearings when there is a controversial issue involved. I think it has been the effort of the Education Committee on those sorts of issues to try to conduct an extensive public hearing schedule, interim hearing schedule, where you actually travel out into the regions. It takes...it takes a lot of time for people to express their views, but you've got to balance giving those folks an opportunity to

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express their views which taking...with taking care of the time, the commitment of time, to the people that are in the hearing room. My experience with teleconferencing, even though it certainly is great at collapsing distances, is not very good when it comes to managing time in a very tight circumstance. The interim hearing I remember that we had in Revenue, we spent a fair amount of time sitting there, waiting for someone to realize that the mike was open and that they, in fact, needed to stand up and speak to the mike--items or issues that could be addressed with experience. That's why I commend Senator Smith's proposal. I think this is something we should continually push to do more of, but to impose hard and fast requirements in the rules at this point I think is unwise. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. Senator Engel, on the Chambers amendment, followed by five others.

SENATOR ENGEL: Mr. President, I certainly agree with the Chambers amendment, but I'd like to talk about the request itself. The...two...a couple things: First of all, there will be a cost associated with this. It probably wouldn't be very much, normally it isn't, but, you know, that would affect decisions. And I do think it should be heard by the Rules Committee, and I think he didn't have, probably, have time to do that. But I would like to say something about Senator Smith. I said...I asked him, when he talked to me about this earlier, I said, well, this morning, you know, we're not going to try to belabor what we're doing and hope...you know, how much time will this take? He says, well, he says, just a reasonable amount of time. I want to tell you a little story. Senator Smith rode home with my wife and I last week because he was...to Sioux City, and his brother picked him up from Sioux Falls, because that's...for the weekend, and about halfway home...Adrian and I must have been talking quite a little bit because about halfway home, Dee said, you know, my throat is dry from listening to you two talk. So that's why I had a little caution here as far as how long you were going to speak. But I don't take...I think this does need a lot of work before we do anything like that. I think the concept is probably good, but I do believe that the Chambers amendment makes it better, and probably it should go through the Rules Committee for a study. Thank you.

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SENATOR CUDABACK: Thank you, Senator Engel. Senator Smith, you're recognized.

SENATOR SMITH: Thank you, Mr. President and members. Appreciate the side comments as well as to the validity of this issue, and perhaps it could be worded differently. I think that if certain individuals wanted to support it they would, and they'll find ways not to, but that's for another discussion, I guess. The cost is an issue, I hear, and I'm glad that Senator Engel pointed out that it is a relatively low cost, especially in terms of comparison cost to travel across the state, and this is pretty reasonable. I suppose I could have put in the rules, you know, requiring the Legislature to pay for the travel expenses for one citizen from each legislative district to have the opportunity to come down to testify. I mean, if we want a good, broad representation of Nebraska, we should pay the travel expenses of someone from every legislative district. Now, again, I go back and emphasize the fact that I support the concept of time limits in committee. Senator Brashear perhaps was the king of that, and so be it. I've never criticized that. But I hope that the body will consider what it's like when those type of constraints are placed on testifiers and they spend over \$300 in mileage resources to come down for three minutes, maybe, if they stand in line long enough. They may not even be guaranteed that spot for three minutes. I believe that it's important to get the perspective of the entire state when you think about the diversity of issues affecting our entire state. And I got a kick out of Senator Chambers' reference to saving the Ag Committee and saving the Rural Development Commission. I would politely and kindly suggest that I believe there were other issues behind those battles and those arguments. But again, we share differing perspectives. We need to keep in mind that we have a hearing process. I think it's important. Not every state accommodates every bill with a public hearing, letting virtually anyone, you don't even have to be a Nebraska citizen, to come in and testify. So we have some unlimited concepts relating to our hearing process. The rules requiring a hearing for each bill, there are unlimited concepts here. But what I want, and I think it's very reasonable, is to accommodate the general public from great distances to save their own

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resources and, at the same time, adhering to the time limits set forth by committee Chairs, very understandably so, that needs to be done, but at the same time being able to voice their concerns and their perspectives. Because you can take even one issue and the perspectives are vastly different even though they might be on the same side of a particular issue. So I hope that we can generate some further ideas and look into this in the future as well, because we have the technology. Let's use it. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. Senator Erdman, on the Chambers amendment.

SENATOR ERDMAN: First casualty of the session. My apologies, Mr. President. Members of the Legislature, I am in support of Senator Smith's underlying amendment, and I'm open to Senator Chambers'. And, for the record, the school district in reference is actually a Class I district within the Morrill County area. There are a number of school districts around it, but it is a Class I that Senator Raikes loves, and so we'll get a chance to discuss that later on this legislative session. The other thing that I found interesting, as I did a little homework here while Senator Chambers was up discussing who hates him and who loves him, and in reviewing those who voted for term limits in my legislative district, it passed by about 650 votes out of about 12,000, less than a...it's right around 5 percent. And so a majority of the people in my area weren't big fans of it and, ironically, the reason why it passed, just quickly glancing, was because people in the more populated areas voted for it--Douglas County, Sarpy County, Saunders County, Dodge County--so just kind of some unique history. I do think that we have to have this discussion because, as this broadcast...as this proceeding is being broadcast statewide through different telecommunications opportunities, through Internet and directly through television on NETV, I think it's important for us as a Legislature to review whether or not we are providing the opportunity for the public to be a part of our discussion, or at least to follow along. And I think, as I've had discussion with Senator Beutler, I believe that if we would allow for more of our proceedings to be seen, whether it be through teleconferencing or whether we were broadcasting directly on

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different committee hearings, as we did, as Senator Bourne pointed out, with the redistricting, I think it would improve the image and the responsibilities and the quality of what we produce here in the Legislature. Now, granted, Senator Chambers points out you can send a mule skinner, and that's an obstacle that we all have to overcome, based on our perspective, but I do think that the process that we're asking the people to be engaged in becomes ever better and becomes more productive if they know that they're going to have an opportunity to be a part of the process and be a part of the discussion and it doesn't cost them, as Senator Smith pointed out, \$300 to drive down here. Now, I recognize that my constituents have driven down here to testify on bills in front of the Judiciary Committee. They've driven down here, you know, some of them. From my place to here, it's about 390-400 miles. They've driven down here. They've gotten their five minutes. They turn around and drive home and at that time...excuse me, Senator Bourne corrected me, three minutes...and at that time nobody asked them any questions, so they got three minutes. So they drove all that way, got their three minutes, which is the same right that every citizen in the state of Nebraska is offered. It's the same opportunity. That's the fairness part of it. The fact that we have chosen to live in God's country is our decision and we have to overcome some of those distances. But where there's an opportunity for us to make this process more accessible, I think we have an opportunity to discover how to do that. And absolutely, cost is a part of that; absolutely, access is a part of that, where those facilities are. But as we continue to grow as a state, and its technology infrastructure becomes more of our society, it should be easier and easier to access this information, and it has been. So I stand in support of Senator Smith's attempts here. I'm not opposed to what Senator Chambers is asking us to consider in order to improve or to change the language. I think there has to be some deference given to the Chairmen of the committees, Chairmen and Chairwomen of the committees, to ensure that they ultimately have the direction and control of the committee, as far as timing. But I do think that if we made it more accessible that we would have more input and then, obviously, we can weigh whether or not that input affects the outcome of the legislation that's before us. So, I think it's a healthy discussion. And I'll just say this.

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Senator Engel and I were discussing the trip that he had with Senator Smith and I believe Senator Smith will be traveling back to Bayard this weekend with my wife and myself, and I'll make sure that we prepare her for those...

SENATOR CUDABACK: One minute.

SENATOR ERDMAN: ...for those long discussions. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Erdman. The issue before the body is adoption of permanent rules and amendments to those. Senator Chambers, on your amendment to the Smith amendment.

SENATOR CHAMBERS: Mr. President and members of the Legislature, let us say, for ease of reference, that we have ten committees meeting on a given afternoon and a member of each committee...every member of each committee insists, and has given the three-days notice to the Chair, that one of the bills that the committee is hearing be sent to a designated area. Let's say that committees one and two have members who want their particular bill, or hearing, sent to the same location, and the location is presented with having two committee hearings that are to be transmitted to them at the same time. They can't do both of them. Which one do they do? How are you going to transmit all of these different committee hearings? Does the rule envision one bill in the hearing, or the entire hearing? And if it's the entire hearing and it's a committee that has a lot of bills, for how long a period of time will the one doing the transmitting be required to do it? In other words, some employees of somebody is going to have to operate this equipment in the Capitol Building to send out that hearing. I offered my amendment to have the opportunity to say what I want to say, and I've said that. I'm not trying to make Senator Smith's offering any better. I don't think it can be practical. I don't think it's feasible. And there's nothing in here that says that there has to be equipment already in place for this teleconferencing to occur. So if I want to have the hearing sent to the barber shop where I used to work, under the rule, that's where it's got to be sent. I designated it. Who does the designating? There is nothing that requires that equipment already be in place. So

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would somebody say, use common sense; if there is no equipment the rule does not apply? I would say, then use better sense and judgment in crafting a rule. This rule is open-ended. Personally, I don't care what the Legislature does about this rule. If you adopt it, it just is more grist for my mill in showing the flaws and deficiencies of the Legislature and the lack of mature judgment, and why extended debate is often required by me to inform not only the public, but sometimes the members, of what is being proposed to the Legislature and what a majority of the body may be contemplating doing, and what they're contemplating may not be wise. Mr. President, I don't want to impede what Senator Smith may be able to get his colleagues to do, so I'm going to sit back and watch the show, without any impediment from me. And with that having been said, Mr. President, I withdraw my proposed amendment.

SENATOR CUDABACK: The amendment is withdrawn. We're back to the Smith amendment discussion to the proposed committee permanent rules. Those wishing to speak are Senator Louden, Senator Kremer, Senator Smith. Senator Louden, on the Smith amendment.

SENATOR LOUDEN: Thank you, Mr. President and members of the Legislature. Since Senator Chambers withdrew his amendment, that part would be...wouldn't be...make any difference. I think I support what Senator Smith is trying to do and I think it's a good idea that any time that we can go out into the areas of Nebraska, surrounding parts of the state, and have our hearings, I think it always helps with the public relations for the Legislature. Anything like that, that brings other people in contact with the Legislature and the senators, has to be a positive effect. We've done that through the past summers that I've been in the Legislature down here, and any time it's always been greatly received wherever we went. As far as the telecommunications, the equipment is already in place at the present time. I think there's one in Chadron, Scottsbluff, North Platte. Any place where there is an extension service or some of the state colleges already has the equipment for telecommunications hearings at the present time. I think what we're missing a bit on our technology is right now even the Legislature is not being shown on areas that they used to be.

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Since most of the people in rural areas and even in the urban areas, in town, are going to the smaller satellite service, they're not picking up the Legislature's broadcasts that they used to. My understanding is the technology is there, but nobody has bothered to work it into this other satellite system. Years ago, when we had the larger satellites, we could pick up the state of Nebraska's Unicameral workings, and at the present time there are very few large antennas left anymore. We've all went to the smaller dish in the rural areas, and even in the cities. So at the present time, unless you're on some type of cable system or picking it up off of your Internet computer, you don't get to view what's going on down here in the Chamber. It's refreshing, too, when Senator Bourne, as Chairman of the Judiciary Committee, now mentioned that he was going to take his committee on the road for hearings through the next summer, it's very refreshing to hear someone do that. I think he's very positive in trying to do something like this. We have to do work to keep the state pulled together because, as you may, as Senator Chambers says, it's going to always be the...where the population is, but you want to remember that if you do not take care of the other parts of the state you will lose that trade territory. You've already lost all of the medical territory, or the bigger part of it, in the western end of the state. Denver and Rapid City has taken it over, and Denver, for the most part, has, because at the present time some of our health facilities are partnering up with health facilities out at Fort Collins and the Denver area to build more facilities in Colorado. Another thing you want to remember, that in a few years from now there could be a bigger population growth in the western end of the state than there is in the eastern end. That front range there is growing at an enormous rate, and they're coming down Interstate 25 at a very vast clip. It won't be too many years that probably Cheyenne and Denver will be all one large metropolitan area. So I support what Senator Smith is trying to do. I think it's something that needs to be done, and I appreciate having him bring it before the Legislature. Thank you.

SENATOR CUDABACK: Thank you, Senator Louden. Senator Kremer, on the Smith amendment.

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SENATOR KREMER: Thank you, Mr. Chairman, members of the body. Since I pressed my light, things have changed and maybe I don't have anything to talk about, but I thought, I hear people speaking a lot of times when they don't have anything to talk about, so I will too. I was going to support the Chambers amendment, because I think it did bring in to answer some of the questions that he even brought up about maybe two hearings going on at the same time or whatever, so that it was just a request, so that somebody that had more knowledge of how would be able to set up the network and the equipment, everything else, could see whether it was feasible or not, but he withdrew his amendment. But I think Senator Smith does have a legitimate concern and I think there are a lot of people that would like to come in and testify but can't, and even...we've had the experience even in our own committee where several busloads of people come in and each one would like to speak, and not only they not even just get to speak three minutes, because we ask them many times, as a group, to have a spokesperson, but sometimes they all want to speak and you don't even give them an opportunity just because of time restraints. So it is an issue that I think we need to be concerned about. And another thing I was going to ask Senator Smith, and maybe it's been answered, that I think we can already do this. I know we had a government...governmental appointment to the Game and Parks where we set up a teleconference with the telephone, because the individual was not able to get to the Natural Resources Committee hearing on that confirmation, and I think it worked very well. It saved that person many hours, and could not even...did not have the time to make it in. So I think there's things that we could do right now and I think maybe that we should be more considerate in requesting these on some of the issues that would take a lot of time. I also do believe that every committee makes a real effort to have interim studies out in western Nebraska, because we do want to hear from people that cannot get in very often. I know the Education Committee and the Government Committee and the Natural Resources Committee, Ag Committee, the ones that I'm familiar with, have had many hearings throughout the state in order to give people out in the further distance opportunity to come in and voice their views on some of the issues. So I think it's something we need to talk about. I thank Senator Smith for bringing it to our attention and I think maybe we should be more

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considerate sometimes in order to, if an issue is very big, that we could at times set up a video teleconferencing, as well as just a telephone conferencing. So, with that, I'll return the rest of my time back to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Kremer. Senator Smith, yours is the only light on. You may either speak or close on your amendment.

SENATOR SMITH: Thank you, Mr. President and members.

SENATOR CUDABACK: Are you speaking or closing?

SENATOR SMITH: I'll close.

SENATOR CUDABACK: You're closing. You're recognized to close on your amendment.

SENATOR SMITH: I appreciate the comments that have been offered today and certainly meets my objective of raising the awareness on this issue. I hope that you will keep in mind that we'll be having a hearing next week where I hope that it is the intent of soliciting broad-based feedback on what is supposedly a different proposal from before that involves schools. It involves schools of different sizes around the state. And I would hope that it is the intent to solicit feedback not only from parents, but from teachers, perhaps even students, but I...I'm not behind that or arranging that. But keep in mind that there's mileage and, when you come from a great enough distance, there's lodging and, if you want the input of a classroom teacher, there's substitute pay and time out of the classroom that has educational and academic implications as well. We have the opportunity to also utilize to a greater extent an infrastructure that we placed not only physically around the state, but statutorily we placed in Nebraska, and I believe it's underutilized. We have the opportunity to save funds in the long term. And I know that some of the numbers were expressed, and considerations for unlimited or these vast numbers, and I, you know, even though we have the ability to introduce a million bills here in the Legislature, it's never happened, or even several thousand. I mean, we approach the

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four-digit mark in a two-year session once in awhile, but...or more than once in awhile, but certainly multiple thousands, it doesn't happen, even though it could. So we need to keep things in consideration here for accommodating the entire state. It's not an unreasonable request. Even if we use the term "request," it's certainly not unreasonable, and can be accommodated in a manner and in a format that is accommodating of staff concerns, of costs of the equipment and otherwise. But I think we have an issue here that I do plan to pursue further. And I appreciate the favorable comments and the support that it has received, and so I will pursue that over the coming months and perhaps an interim study and introducing it as a rule change next year, with the proper hearing, and I was not able to accomplish that, given the time frame that I was given this time around. But, with that, Mr. President, I would respectfully ask to withdraw the amendment. Thank you.

SENATOR CUDABACK: The amendment is withdrawn. Back to discussion of the original proposed permanent rules, offered by the Rules Committee. Open for discussion. Seeing no lights on, Senator Hudkins, you're recognized to close on your proposed rules.

SENATOR HUDKINS: Thank you, Mr. President. We have had a good discussion this morning of one proposal that was heard by the Rules Committee, another proposal that was not. I appreciate all of the comments from all of the senators. I think that there were good points and not so good points brought up by all of those involved. It's always good to have this discussion, because when you hear one side you think, oh, that's fine; and then you hear the other side and you think, I never thought of that. So I'm glad we've had this discussion and I would renew my motion to adoption of the permanent rules. Thank you.

SENATOR CUDABACK: Thank you, Senator Hudkins. You've heard the closing on adoption of permanent rules, offered by the Rules Committee. Question before the body is, shall those rules be adopted? And it does require...oh, thank you, Senator Chambers. I was going to do that, but thanks for reminding me. Appreciate it. The question before the body is, shall those permanent rules be adopted? And it does require 25 votes. All in favor

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vote aye; opposed, nay. I'm sorry, you requested a roll call vote. I'm sorry. My mind was someplace else.

SENATOR CHAMBERS: (Microphone malfunction) I'd like a call of the house, first.

SENATOR CUDABACK: Been a request for a call of the house. All in favor of the house going under call vote aye; opposed, nay. Record please, Mr. Clerk.

CLERK: 25 ayes, 2 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call. All members return to their chairs, please. The house is under call. Unauthorized personnel please leave the floor. The house is under call. Members remain in their seats. Thank you. The house is under call. Senator Cunningham, Senator Flood, Senator Burling, Senator Howard, Senator Foley, Senator Bourne, the house is under call. Please return to the Chamber. Senator Flood. Senator Burling. Senator Foley, would you check in, please? Thank you. Senator Bourne. Senator Flood and Senator Bourne, the house is under call. Senator Bourne, the house is under call. Please return to the Chamber. All members present or accounted for, and the question is adoption of the permanent rules. There's been a request by Senator Chambers for a roll call vote. Mr. Clerk, call the roll on the question.

CLERK: (Roll call vote taken, Legislative Journal page 221.) 39 ayes, 4 nays, Mr. President, on adoption of permanent rules.

SENATOR CUDABACK: The motion was successful. The permanent rules have been adopted. I do raise the call. Do you have announcements, Mr. Clerk?

CLERK: Mr. President, I do. The Performance Audit Committee will meet in Room 2022 now; Performance Audit Committee in Room 2022 now. Mr. President, I have a series of hearing notices from the Natural Resources Committee, from the

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Retirement Systems Committee, Health and Human Services Committee, the Revenue Committee, all signed by their respective Chairs. I have a series of appointments made by the Executive Board to the various select committees of the Legislature, to be inserted in the Journal, Mr. President. And, Mr. President, new bills. (Legislative Journal pages 222-223.)

SENATOR CUDABACK: New bills read into the record, please, Mr. Clerk.

CLERK: Mr. President. (Read LB 434-480 by title for the first time.) Two new constitutional amendments, Mr. President: LR 17CA by Senator Chambers proposes an amendment to Article V, Section 30; LR 18CA by Senator Beutler proposes an amendment to Article XI, Section 1, of the Nebraska Constitution.

Mr. President, a series of name adds: Senator McDonald to LB 100; Senator Mines, LB 273; Baker, LB 273; Brown, LB 273; Cunningham, LB 400; Loudon, LB 414; Engel, LB 454; Engel, LB 455; and Senator Fischer to withdraw her name from LB 266. Mr. President. (Legislative Journal pages 223-235.)

SENATOR CUDABACK: Thank you, Mr. Clerk. You have any messages, reports, or announcements?

CLERK: I have a priority motion, Mr. President. Senator Raikes would move to adjourn until Friday morning, January 14, at 10:00 a.m.

SENATOR CUDABACK: You've heard the motion by Senator Raikes to adjourn until Friday morning. All in favor of the motion say aye. Opposed, nay. We are adjourned. (Gavel)

Proofed by: J. Hurlbut