

Nebraska State Legislature

SENATOR TOM BREWER

**District 43
550 West 10th Street
Gordon, Nebraska 69343**

**Legislative Address:
State Capitol
PO Box 94604
Lincoln, Nebraska 68509-4604
(402) 471-2628
tbrewer@leg.ne.gov**



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Members of the Nebraska Legislature
Nebraska State Capitol
1445 K Street
Lincoln, NE 68508

May 17, 2024

Dear Colleagues:

I am writing to express my concerns about parts of the “Legislative Committee Clerk Support Proposal” that is currently being considered by the Executive Board. This past December, I voiced similar concerns about a previous version of this proposal relating to both committee clerks and committee legal counsels. As a term-limited senator and outgoing committee chair, this proposal would not impact me directly. However, with so few chairs returning next year, I thought it was necessary to explain my concerns about this proposal based on my six years of experience chairing the Government, Military and Veterans Affairs Committee.

My committee clerk is an essential member of my legislative team. In the Government Committee office, everyone is part of the team. Each staff member has their own duties, however every single member of the office is expected to step in and help as needed. This is especially critical during the legislative session. It has been my standard procedure to confer with my legal counsel and committee clerk, together, on a daily basis during the legislative session. Both committee staffers work together to develop our hearing schedule, to plan committee executive sessions, and to build committee priority packages. Removing committee clerks from committee offices and from the committee chair’s chain of command will be detrimental to the work done by committees. The committee clerk’s job security should be based on that clerk’s ability to perform well in the committee process under the direction of their committee chair.

The responsibility for performance of a committee’s duties falls to the chair of that committee. If there is an error in a committee statement, or in some other document that comes out of a committee office, the chair is the correct person to address that deficiency. If the remedy is not sufficient, there is a process in our rules to address such problems. Rule 3, section 4(c) allows any member to file a written complaint with a committee. That complaint is then to be heard in the Committee on Committees, which is tasked with figuring out what right looks like.

I am very proud of the work that my committee office has done over these past six years. I think my committee clerk is as good as they get. But every person who takes a committee clerk position has to learn the job. When we saw a large turnover in committee staff before the 2023 session, there was bound to be a learning curve. More experienced committee clerks, including mine, served as mentors to help coach up the newer clerks. The proposal contemplates compensating senior committee clerks for this additional job responsibility. I believe that is appropriate, and that is likely to effectively improve retention of our clerks in their positions.

I do not believe that it is appropriate to dramatically reduce the authority of committee chairs by eliminating their ability to hire their own staff. I do not believe that it is appropriate to remove committee clerks from the committee office, especially when a significant proportion of the telephone calls during session are for the clerk, asking for the hearing order, instructions on testifying, or a copy of an exhibit presented by a testifier to the committee at hearing.

A number of committee clerks have provided me with a document detailing their thoughts about the Legislative Committee Clerk Support Proposal. I am attaching that document to this letter for your review.

The Legislature should be run by elected senators. Diminishing the authority of senators to lead our committees takes authority away from the people who were actually sent to the Capitol by their constituents and gives it to unelected legislative employees who are not directly accountable to any individual senator. I urge all my fellow chairs to contact the members of the Executive Board with their thoughts, and I would ask the Executive Board to reject this proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Brewer". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Senator Tom Brewer

Enclosure.

This letter is in response to the “Legislative Committee Clerk Support Proposal” drafted by the Clerk of the Legislature at the direction of the Speaker. While the proposal initially looks like it is solving the problem of inaccuracies with the Committee Clerks, upon closer review we believe the following hardships and inefficiencies would be created as a result of this.

1. Some committee clerks, at the discretion of their Chair, have added responsibilities due to the workload of the committee. This is anticipated in the job description in the personnel manual. Committee clerks are often the personal assistant to the chair when it comes to committee matters in a way that surgeons in a hospital have their own assistants to assist in scheduling. There is also a great deal of coordination with the committee legal counsel or research analyst. Clerks assist constituents with questions about the hearing, assist testifiers who plan on testifying at any given hearing, and assist other Senators and their staff with questions in general regarding the agenda, hearing, exhibits. This committee business is all done in a team environment with the committee chair and legal counsel to expedite the office workflow and efficiently and accurately move bills from hearing to executive session to the floor. Communication between these key personnel would be greatly hindered under this proposal. Senators’ emails are overwhelming

at best and valuable time would be lost in using that communication method to try to communicate all of the needed questions and adjustments in processing the requirements for the basic work of the committee. It would also be a hardship to have the committee clerk and the legal counsel not physically located in the same office to directly assist the chair.

2. Last year, it was noted that there were many mistakes made by new committee clerks. There was a high turnover in this position due to clerks being hired into the Legislative Aide position along with several long term clerks retiring. This high level of attrition in itself caused a hardship that is not normally experienced. The Committee Clerk's role is demanding and complicated. Very little training was provided to new clerks coming into the system. There is a procedure book given to the clerk, but it is limited in explaining all of the duties required of the clerks and hard to follow while implementing the tasks on a daily basis. The better solution to reducing mistakes and creating efficiency would be to provide adequate training as soon as clerks are hired and make step-by-step backup videos available on the Uninet for clerks to watch to refresh the training.

Additionally, group feedback and training sessions should be organized during the interim to have discussions on what worked and what did not. We do not see clerks

submitting substandard work due to indifference. We believe that many clerks experienced frustration in the lack of training and were told to refer to the procedure manual for questions which left them guessing as best on how to complete the task. One aspect of the proposal that is positive is recognizing the role of senior committee clerks in assisting new clerks at the beginning of the year. Several senior committee clerks have already stepped up this year to assist other clerks with training and questions. While compensation commensurate with long tenure and this additional responsibility would be nice, this mentorship of new clerks by more experienced clerks is already occurring.

We believe that if a clerk is making a mistake, the historian or Mike Hybl can present it to the committee clerk and the chair to make the chair aware of it. If it continues, then the speaker can be made aware of it which can be brought to the attention of the chair again. Committee chairs should recognize that their leadership role makes them responsible for ensuring that the work of the committee being carried out efficiently and accurately. We believe that this accountability is capable of resolving most of the issues that the proposal was crafted to address.

Questions to ask:

- a. How many corrected committee statements needed to happen this year?
- b. The Clerk's office hired Mike Hybl to assist with the committee statements. Hasn't this problem already been addressed?

3. Committee clerks, like the other staff under a Senator are required to stay after a hearing to complete all the tasks from that hearing including uploading exhibits for the transcribers before they are able to leave for the day. The proposal would have some clerks managing several committees, requiring juggling and multitasking which we believe will result in more mistakes. Clerks need additional time to look over and double-check their work for errors because accurately capturing the details of our committee work is critical.

The plan to assign the clerks to multiple committees and add separate Administrative Assistant positions in the smaller committee offices is not obviously a better use of personnel resources versus the shared CC/AA position for a committee that has only a limited number of bills every year.

One possible solution would be to consolidate Natural Resources with the Agriculture Committee. Now would be an opportune time for that since both chairs are term-limited out. Judiciary could be split into two committees covering Civil and Criminal matters to better accommodate the exceptionally high workload currently placed on the Judiciary Committee office. This would also mean keeping both legal counsels from Judiciary to staff the offshoot committees.

The Education Committee has a tremendous workload for a two-day committee, especially because so many of their hearing days are lost to recess days or holidays. One solution would be to separate the CC/AA into two positions for that committee and to perhaps allow them to trade offices with Transportation to better accommodate the staffing level.

4. If you remove the clerks from the office of the chair and isolate them from the rest of the staff you are greatly hindering the overall performance of the office. Many positive aspects are gained by having the chair's team together along with the AA and LA. There is a beneficial *esprit de corps* created, and everyone has the ability to learn each other's tasks and assist as needed, such as when the AA or LA is sick. This learning environment is set up so AA's can learn about what the clerk does as well as the clerk learning what the LA does and so forth.

Understanding each of our colleagues job functions improves our ability to collaborate effectively. This also gives everyone the ability to educate and be able to apply for other positions if they so desire. This new proposal would isolate clerks in their own administrative silo and limit opportunities for professional growth and advancement.

5. Location: Consolidating the committee clerks would require remodeling of two rooms to accommodate this. While I understand that room 1113 is not adequate as a committee room, it could still be remodeled to deal with the acoustics and other issues. Room 1023 could still be remodeled also if necessary and while one could be a hearing room, the other could be set up as an overflow room which is still needed and this current proposal does not address that issue. Also the new space includes one table which would not be adequate for ten clerks who each need substantial workspace to complete their tasks.

6. Costs: Firing five committee clerks and hiring eight additional AAs. What is the cost of this? Would the clerks who are fired be guaranteed a position? What is the cost if the clerks are considered part of the Clerk's staff and are eligible for overtime? What is the cost of adding ten printers? What is the cost of adding additional staff at the higher pay level and growing the government workforce?

Staffers are now directly accountable to their boss, the Senator who was elected to carry out the people's business in the Legislature. This new proposal adds layers to the bureaucracy which dilutes the people's ability to hold Senators and their staff accountable to the voter.

7. Hiring Transparency: The Office of the Clerk of the Legislature does not have a strong record of transparency in its hiring practices. Committee clerks with an interest in opportunities for advancement have observed instances where a new hire would appear in the Clerk's office without any previous notice that the office was accepting applications for employment there. These open positions do not seem to be broadly advertised when they come up. Currently, committee clerk hiring decisions are distributed across the committee chairs, and it is clear that the elected chair is the single person with the authority to make the hiring decision. The timeline for approaching incoming chairs about employment as a clerk is also clear, since it coincides with the seating of a new Legislature every two years.