

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board March 4, 2025

HANSEN: Hi. Good afternoon and welcome the executive board. My name is Senator Ben Hansen. I represent the 16th Legislative District in Washington, Burt, Cuming, and parts of Stanton Counties, and I serve as chair of the Executive Board. I'd like to invite the members of the committee to introduce themselves, starting on my right with Senator Clements.

CLEMENTS: Rob Clements, District 2.

McKINNEY: Terrell McKinney, District 11.

BALLARD: Beau Ballard, District 21.

DORN: Myron Dorn, District 30.

FREDRICKSON: John Fredrickson, District 20.

JACOBSON: Mike Jacobson, District 42.

HANSEN: Also assisting the committee is our legal counsel, Benson Wallace. Our committee clerk, Natalie Schunk, and our committee pages, Sam and Jacob. A few notes about our policies and procedures. Please turn off or silence your cell phones. We'll be hearing two bills. They'll be taken in the order listed outside the hearing room. On the table near the door to the hearing room you'll find green testifier sheets. If you're planning to testify today, please fill one out and hand it to page when you come up to testify, so help us keep an accurate record of the hearing. If you're not testifying at the microphone, but want to go on record as having a position on a bill being heard today, there are yellow sign-in sheets at the entrance where you may leave your name and other pertinent information. Also note if you are not testifying, but have an online position comment to submit, the Legislature's policy is that all comments for the record, must be received by the committee by 8 a.m. the day of the hearing. Any handouts submitted by testifiers will also be included as part of the record as exhibits. We'd ask if you do have any handouts that you please bring 12 copies and give them to the page. We use a light system for testifying. Each testifier will have three minutes to testify. When you begin, the light will turn green. When the light turns yellow, that means you have one minute left. When the light turns red, it is time to end your testimony, and we will ask you to wrap up your final thoughts. When you come up to testify, please begin by stating your name clearly into the microphone, and then please spell both your first and last name. The hearing will begin with each introducer giving an opening statement. We will then hear from

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supporters of the bill and those in opposition, followed by those speaking in a neutral capacity. The introducer of the bill will then be given the opportunity to make closing statements if they wish to do so. On a side note, the reading of testimony that is not your own is not allowed unless previously approved. And we do have a strict no prop policy in this committee. So with that, we'll begin today's hearing with LB228. Welcome, Senator Dorn, open.

DORN: Thank you very much. Ready?

HANSEN: Yep.

DORN: Yep. Good afternoon, Chairman Hansen and members of the board. My name is Myron Dorn, M-y-r-o-n D-o-r-n, and I represent Legislative District 30. I also serve as chair of the Performance Audit Committee, and in-- introducing this bill for the Legislative Audit Office. LB228 is a cleanup bill that makes several small changes to the Performance Audit Act. First, the bill update references in the act to government auditing standards, changing the standards the office is required to follow from the previous 2018 version to the most recent 2024 revision. LB228 also clarifies language in the act, adding planning documents to the definition of working papers already in the act. Working documents are simply the work product of the office created in the course of an audit. The bill would also include correspondence between audited agencies and the office in those documents that are not public records under the language of the act currently. Arguably, both of these types of documents could be considered working papers and therefore not be considered public records. The language changes in LB228 would just make that clear. The final area, area of change of LB228 is in regards to the tax incentive audits the office is required to conduct on a regular schedule in this act. The bill clarifies that only those metrics that are directly app-- applicable to the audited program will be analyzed. For example, if a tax incentive program does not have a goal of adding jobs, the audit wouldn't have to examine how many jobs were added by that program. The scope and the metrics of the tax incentive audits would continue to be approved by the committee. The bill also changes joint hearings for presentation of tax incentive audit reports from required to permissive, as decided by the Performance Audit Committee. In conversation with the Speaker, he has suggested that this bill could be amended into LB298, which would make sense as they both make changes to the Audit Act. Stephanie Meese with the Legislative Audit Office will follow me today to provide more details about this bill should you need more. I'd be happy to answer any questions, but if you really want technical questions answered, please wait until Stephanie comes up here because she understands that

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part of it, I call it, and would give you the correct answer. I could give you an answer, but I'm not sure it would be the correct one always.

HANSEN: All right. Thank you. Are there any extremely difficult technical questions for Senator Dorn? Yes, Speaker Arch.

ARCH: I'll, I'll wait for Stephanie to come up and ask the question.

DORN: You will. Thank you. Thank you much, yes.

HANSEN: All right. Thank you very much. You'll be here to close, right?

DORN: I'll probably waive closing on this.

HANSEN: All right. OK. Sounds good. I will wel-- will welcome up our first testifier in support of LB228. Welcome.

STEPH MEESE: Thank you. Good afternoon, Chairman Hansen and members of the board. My name is Steph Meese, S-t-e-p-h M-e-e-s-e. I'm the legislative auditor and supervise the staff and work of the Legislative Audit Office. Thank you so much to Chairman Dorn for introducing LB228 on behalf of the office. The most important part of the bill to the Audit Office is the update to the government auditing standards, or the Yellow Book, as it's commonly known as. The bill updates the standards for the 202-- 2024 revision, which might seem on its face like it's already out of date. But the US Government Accountability Office always gives some time for everyone to implement the new standards. And so due to that, the 2018 standards are still in place. We have until, only for performance audits that start after December 20-- or September-- excuse me, December 15 of 2025 for only for projects that we start after that point, do we need to follow the 2024 standards, so there's plenty of time to get this through. As Chairman Dorn stated, the rest of the bill is essentially cleanup of our Performance Audit Act. And I just want to be clear that the changes aren't made in response to any problems we've had or anything. We just want to make sure that the language in the act is as clear as possible and reflective of actual practice. We do a lot of statutory interpretation in our work as auditors. So it's probably not a big surprise that we want our act and language in there to be as clear and precise as possible. So with that, I'm, I'm happy to take any questions. Thank you.

HANSEN: Thank you. Are there any questions from the committee? Speaker Arch.

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ARCH: So, do I understand that you're moving-- are you moving from 4 audits to 5 audits?

STEPH MEESE: No, this doesn't make any diff-- change on the number of audits.

ARCH: The number of audits.

STEPH MEESE: No it doesn't. Yeah.

ARCH: Then why the additional staff?

STEPH MEESE: There's no additional staff with LB228. There's no fiscal note on the bill.

ARCH: Oh, I'm sorry.

STEPH MEESE: No, it's OK. It's, it's-- there's lots of different legislation touching on oversight. So I understand, so.

ARCH: I would only-- I mean we, we have had the conversations about, about if, if this is good then where can it fit into LB298 [INAUDIBLE].

STEPH MEESE: Mm hmm. Absolutely.

ARCH: I'm certainly open to that if the Executive Board thinks that this is a good thing to do.

STEPH MEESE: mm hmm. Thank you.

HANSEN: Any other questions? Seeing none, thank you very much.

STEPH MEESE: Thank you.

HANSEN: Anybody else wishing to testify in support of LB228? Seeing none, anyone wishing to testify in opposition LB228? Seeing none, anyone wishing to testify in a neutral capacity? All right. So with that, the introducer decided to waive his closing, and that will close our hearing for LB228. And then we will-- and for the record, that did have one letter in support, five in opposition, and zero in a neutral capacity. And now we will open it up for LB190 and welcome Senator Machaela Cavanaugh to open.

M. CAVANAUGH: Good afternoon, Chairman Hansen and members of the-- I was going to say Appropriations Committee. That's Senator Clements. Of the executive committee. My name is Machaela Cavanaugh,

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M-a-c-h-a-e-l-a C-a-v-a-n-a-u-g-h, and I have the privilege of representing District 6 in west central Omaha and Douglas County. I am feeling a little off my game today because I do not have my progressive glasses. So I am juggling eyewear, and these are not my normal readers either. So for my younger colleagues, I didn't wear glasses when I started this job and now I've wear multiples. LB190 expands the duties of the Legislative Performance Audit Committee and staff to include a routine audit of state departments and agencies, or a portion thereof, or a program on a rotating basis of five years. Numerous other states include this type of oversight on an ongoing rotation basis, so that every agency, or at least a portion of that agency, is reviewed routinely. Some of the states that have some compliance auditing, I'll highlight a few examples. Florida does quality assessment reviews on internal audits of state agencies. Idaho does management reviews of each executive department at least once every three years. Kansas has a legit-- legislative division of post-audit that is similar to the intent of LB190, plus the division provides foresight by pres-- predicting how changing current government structures might affect state costs and program outcomes. Something that we might want to consider, considering what's going on. Since intro-- introducing the original bill, we've continued to work with more specific-- on more specific language pertaining to our current Performance Audit Act. Thus AM511, which has just been distributed, is a white copy amendment that replaces the original bill. The amendment changes the name of the evaluation to an operational review. An operational review is defined as an investigation evaluation to assure compliance with Nebraska law and legislative intent and appropriate accounting practices. This review would not be a full blown performance audit. The intent is to use the operational review to do a brief evaluation of agencies or programs on a general rotating basis to check on compliance with legislative intent, Nebraska law, and appropriate accounting practices. Performance-- currently, performance audit staff perform two different types of audits. One is the full performance audit crafted by pre-audit scope. The second is an evaluation of tax incentives to evaluate whether the tax incentive program is meeting its goals and intended purpose. An operational review, as def-- as we define it, could be beneficial for a small program or division that lack-- lacks the personnel resources to know how to appropriately record financial transactions. The review can make recommendations to help the agency be accurate and accountable. A review would provide guidance on changes that are needed to comply with Nebraska law or legislative intent. Again, it's not a full blown audit, but a short evaluation to catch an issue before it becomes a major problem. On a larger agency,

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it will be used as a less intensive check of the operations of the agency. AM511 also extends the five year rotation to a seven year rotation, and requires a hearing for operational review on a quarterly basis to allow for questions and concerns from the public to be voiced, and for a representative of the subject department, agency, or program to be available for comment if they choose. The reports are to be published on the Legislature's website as their current reports are now. Intent language indicates funding for staff, but doesn't give an exact amount. Oversight is a responsibility of the mem-- of the Legislature, and I ask for your support of LB190. And now, like Mr. Rogers, I'm changing my glasses.

HANSEN: All right. So would the Performance Audit Committee have to do an audit of the Performance Audit Committee.

M. CAVANAUGH: Would we as a committee have to-- sorry, I'm on the committee. Would we have to audit ourselves, or--

HANSEN: I mean if we're going to audit all the agencies and-- yeah.

M. CAVANAUGH: So yeah, that's a great question. So when we pass legislation and it goes into effect, sometimes it doesn't, it isn't, like, implemented the way that we like. Or one of my favorite examples is Senator McDonnell brought a bill that passed before our time in the Legislature and then brought another bill, I think, every biennium to HHS, which I think you might recall, for the firefighters to force the previous administration to actually enact the law that was the law. So that's an, that's an extreme example. But to get somewhere between those, like, clarifying and making sure that-- because really when we pass a law, yes, it's a law, but it's also a concept to a certain degree. We don't do rules and regulations. We don't-- we try not to make our, our legislation too prescribed to give the administration the flexibility to implement the law as is feasible within their confines. But I-- we still, I would think, would want to make sure that the initial intent is being honored in the implementation of laws.

HANSEN: OK. And you have in here, the tax incentive performance audit shall be initiated. Would that, would that include TIF?

M. CAVANAUGH: I think that's already-- is that underlying language or is that--

HANSEN: Yeah.

M. CAVANAUGH: Or is it--

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HANSEN: Yeah, you have-- I guess, yeah, you just changed some of the-- just some of the language, but the intent is the same, so.

M. CAVANAUGH: I-- yeah.

HANSEN: I don't know if it's something you add or not, but it doesn't look like it.

M. CAVANAUGH: OK.

HANSEN: Yep, you're fine. Any questions from the committee? Senator Fredrickson.

FREDRICKSON: Thank you. Thank you, Senator Cavanaugh, for being here, for bringing the bill. This is a bit of a strange question to ask, I mean, but it's-- so, so speaker Arch brought LB298, which I don't know if you've had the opportunity to read that bill yet or not. But, you know that's kind of looking over sort of oversight and obviously performance audit is within that realm.

M. CAVANAUGH: Right.

FREDRICKSON: How would LB190 interact with LB298 if at all?

M. CAVANAUGH: I think that some language changes would have to be made to the new structure of the office. But if, if this committee and the Legislature sought to implement this, then it would just be a new duty of that umbrella entity.

FREDRICKSON: So with some changes that could complement each other.

M. CAVANAUGH: Yeah, it would have to-- if-- this would not-- you-- that amendment would not be the final form, that would have to be worked into it. And honestly, I, I think if the committee likes this idea, then we could discuss about making an adaptation amendment to Speaker Arch's bill.

FREDRICKSON: Thank you.

M. CAVANAUGH: Yeah.

HANSEN: Speaker Arch.

ARCH: Yeah, I might respond to that because it's, it's a very good question. So the oversight division, as proposed in, in LB298 would have the two IGs plus performance audit. You know, when I presented LB298, we talked about the possibility of having a fiscal part of it,

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you know, where you would, where you would say, are we getting what we paid for? You know, there could be, there could be other contract part of it, you know, are, are contracts being handled well? You know, all those things could be added to this, as you say, the umbrella of this oversight division. And you know, this, this kind of fits into that. And so, you know, for consideration.

M. CAVANAUGH: And I've had discussions over the years about like the IG's office and whether we should be looking to expand that to have like a Medicaid or a contracts IG. But I think, you know, contracts are something that we continue to have an issue with in transparency. And I believe Senator Fredrickson had a bill just this week on the managed care organizations, or last week. But I see this as codifying an expansion of, of good governance and, and what we want this particular branch of the Legislature to do. And I think that this is really a starting point of a conversation, and I'm not going to prioritize it. So I think it probably it would be a discussion about elements to go into Speaker Arch's, which I have not talked to him about. I'm not speaking, saying that he's like, yes, let's do that. But I think that's where I'm hoping to see this go is if we can find elements that the committee agrees on are useful, then put those into the performance audit bill.

HANSEN: Senator Dorn.

DORN: Thank you, Senator Hansen. Thank you for being here with us. I-- just reading through the amendment. Kind of quick here or whatever, but just so I maybe under-- more clarification than anything, and maybe you've answered some of it, I don't think, thinks [INAUDIBLE]. Because in the operational review on page 3, and then it says the committee shall review and approve a schedule of operational reviews of all agencies on a rotating basis so that each agency or portions of an agency is reviewed every seven years. Well, now that you're sitting on Appropriations, you know that we have 70 some agencies, I guess.

M. CAVANAUGH: Right. So that would be, that would be the rotating part of it.

DORN: Right. But some of those agencies are, are very small to just-- we approve some funding to somebody like in HHS, and I just-- I don't know if-- my question is more, how many more auditors would this take us to do that? I mean, because I-- you know, they--

M. CAVANAUGH: That would be a ques--

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--they, they do about 3 to 5 now audits a year, or somewhere in that neighborhood. I see Stephanie shaking her head yes.

M. CAVANAUGH: And that's why there's the intent language.

DORN: Yeah.

M. CAVANAUGH: For-- to hire more FTEs but not stated. I-- we would have to-- I think the committee would have to-- the Performance Audit C-- well going on the current structure, the Performance Audit Committee would probably have to authorize more FTEs.

DORN: They, they, they-- well, but they would-- I guess my, my thought is just that some of these agencies, they could eliminate that. We wouldn't have to-- like the Corn Board, we wouldn't necessarily need to do a performance audit on that one.

M. CAVANAUGH: What do you have against the Corn Board? Next you're going to say the Sorghum Board.

DORN: But it's an agency. The corn checkoff, I should say.

M. CAVANAUGH: Yes. Yeah. Yeah. I, I think that that's something that could be amended in to say that these commissions and boards are not part of that agency collection.

DORN: But there's other agencies that I-- yeah, yes, I understand why. Thank you.

HANSEN: All right. Seeing no other questions. Are you going to close?

M. CAVANAUGH: I will stay here, but I-- unless there's burning questions, I don't think I'll waive my close.

HANSEN: All right. We'll take our-- Anyone wishing to testify in support of LB190? OK. Seeing none, is there anyone who would like to testify in opposition to LB190. Seeing none, does anybody wish to testify in a neutral capacity to LB190. Welcome back.

STEPH MEESE: Thank you. Good afternoon. My name is Steph Meese, S-t-e-p-h M-e-e-s-e. I'm the legislative auditor. I just wanted to speak briefly, to just say that we greatly appreciate Senator Cavanaugh and her staff discussing the legislation with us and meeting with us regularly, just to kind of talk through what the options might be for to mee-- best meet her intent. That said, I'm testifying in a neutral capacity because this is, because this is a, a policy decision

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for the board and the Legislature. But I'm happy to answer any questions anyone might have about the office and how this might impact our work. So.

HANSEN: Any questions from the committee. Senator Clements.

CLEMENTS: thank you, Chair. Thank you, Steph.

STEPH MEESE: Yeah.

CLEMENTS: I see in the fiscal note, it estimated one additional FTE. Thinking about all the extra work they would be-- is that really enough?

STEPH MEESE: Yeah. It-- I-- it would-- that definitely would depend on if it's the amended version that has it on a seven year review basis, or if it's a five year review. I think it would take a while to kind of get our feet under us on how these would work. So there would be like a little build out process, similar to what when we added the requirement to do tax incentive audits to the office, it took a while to kind of structure those, so it may be a little bit slower to start. I-- it's really, just because this is a different kind of review than we've ever done, it wouldn't maybe necessarily be like a full audit, it would be a narrower kind of research more type review. And so I-- it's-- I just honestly couldn't really speculate as to how many-- we would need more staff, and certainly Senator Cavanaugh is aware of that and in support of that. I just really don't know how many that would nec-- necessitate, which is what-- why the fiscal note is kind of what it is. So just let you know what the adding one performance audit staffer would be. And then when-- if the board decided to move this forward in whatever time period, then you could make the determination as to how many people maybe you thought--

CLEMENTS: Thank you.

STEPH MEESE: --would be needed for that. You're welcome.

HANSEN: Senator Jacobson.

JACOBSON: I, I guess my question would be, we do this and, and then what happens? In other words, I'm-- if we look at it under the current performance audit structure, we do the audit the-- the-- this-- we review the audit, we release the audit. And then that's where it all stops. We have no authority to do anything to push the fix of the audit. That really falls on the executive branch to take steps necessary. And if they choose not to, we just, gee wiz, we found this

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and this happened. Oh well, we'll do better next time when we move on. Do you see anything in LR298 [SIC] and this bill that would change what would happen if we discover problems and, and issues in the audit other than maybe some public humiliation? But is that pretty much the end of the road?

STEPH MEESE: Yeah. The-- in the Performance Audit Act currently there is at-- I-- there's a-- I can't remember what the exact time frame is, but after the audit report is made public, we do follow up with the agency to see how they're implementing the recommendations from the committee. And so there's that. But it, it goes to sort of the same. It's on them to, you know, they're self-reporting what they've done to implement the the recommendations from the committee. The, the committee can and often does introduce legislation if they find problems or areas of the statute for the agency or program or or we're auditing. If there's changes that need to be made there to tighten things up. But you're right that a lot of the things are-- they need to have stricter, or put in place policies for the work they're doing. And there isn't, there isn't much of a stick there beyond just having a committee of the senators to, to, to know that they're watching and looking at that. But then, then, you know, we can work with the, the subject matter committee as well, if that's something they'd be interested in introducing legislation on.

JACOBSON: Well, Thank you [INAUDIBLE].

STEPH MEESE: Yeah. Yeah. And I don't think that there's anything necessarily-- the-- the amendment that Senator Cavanaugh brought today does have more for these operational reviews, would have quarterly hearings where it would kind of be this public opportunity to kind of show what these have. And certainly the Performance Audit Committee, when we release any of the audit reports, we-- they can elect to have a public hearing on any of the reports if they want to get infor-- more input from stakeholders or the agency. So again, but just that still looks like public shaming, falls into that category probably, so. But yeah.

HANSEN: Thank you. I would encourage the committee members to see the bill that's coming up later this week, a "Sunset Committee" and it pretty much does all the same things like we're talking about in a separate committee. Any other questions from the committee? I'm seeing none. Thank you very much.

STEPH MEESE: Thank you.

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HANSEN: Anybody else wishing to testify in neutral capacity? I'm seeing none. Senator Ca-- Machaela Cavanaugh waives, waives closing, and that will close our hearing for LB190. And we did have six letters in support, and zero in opposition, and zero in the neutral capacity to LB190. And that will close our hearings for today. Thank you.