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Appropriations Committee  
March 03, 2011

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[LB491]

The Committee on Appropriations met at 1:30 p.m. on Thursday, March 3, 2011, in Room 1003 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB491. Senators present: Lavon Heidemann, Chairperson; John Harms, Vice Chairperson; Danielle Conrad; Tony Fulton; Heath Mello; John Nelson; Jeremy Nordquist; and John Wightman. Senators absent: Tom Hansen.

SENATOR HARMS: We will first hear the proponents for this bill, and then opponents, and then anyone who would like to speak neutral. Senator Mello. [LB491]

SENATOR MELLO: (Exhibits 5-9) Good afternoon, Vice Chairman Harms and fellow members of the Appropriations Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District, which includes south Omaha and Bellevue. Last session, the Nebraska Legislature passed LB16, the Taxpayer Transparency Act, which required the State Treasurer to develop and maintain a single, searchable Web site, with information on state tax receipts and expenditures, accessible to the general public. While this legislation was certainly a positive step to help citizens follow how their tax dollars are being used, for the most part the state budget is a mystery to most Nebraskans. LB491 would amend existing statutes dealing with development of the state budget, adding requirements that state agencies develop biennial strategic plans and monthly performance measurements as part of the existing state budget process. Inclusion of these measures in our current processes would help improve the transparency of our state budget and is an important first step towards adopting a performance-based budgeting system in Nebraska. These changes are among the Nebraska-specific recommendations included in the Pew Center on the States "2008 Grading the States" report. They were also included in the American Legislative Exchange Council's recently released "State Budget Reform Toolkit," a copy of which was delivered to all of our offices just this week. In drafting LB491, it was not my intention to require the Nebraska State College System, the Nebraska Community College Association, or the University of Nebraska to compile or submit monthly performance measurements. The committee should have received a copy of AM413 which clarifies that these entities are not required to submit monthly performance measures. However, the university and the State College System would still be required to develop biennial strategic plans. In 2003, the state of Washington faced a projected budget deficit of more than \$2.4 billion. Rather than rely on traditional budget-cutting techniques, like across-the-board cuts and one-time fund transfers, however, the governor and the state legislature in Washington began implementing a performance-based budgeting system, ultimately closing the budget gap without raising taxes. Moving towards such a system in Nebraska through the passage of LB491, while not addressing the immediate budget crisis, presents a potential solution to our long-term budget problems. As I'm sure you are all aware from the Appropriations Committee agency hearings, only a handful of state agencies are already developing

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Appropriations Committee  
March 03, 2011

---

strategic plans, while almost none are developing performance measures. While we, as members of the Appropriations Committee, receive some performance information during the budget process, agencies in states that have moved towards performance-based budgeting are providing far more useful information to their legislators as well as their citizens. To demonstrate this, I've handed out a copy of a monthly report from the Maryland Department of Labor, produced their StateStat system, as well as a copy of an agency efficiency review plan--part of the budget process--from our own Department of Labor. As you can see, there is simply no comparison between the detailed performance benchmarks in the Maryland report and the cursory five-page overview currently available in the Nebraska budget process. Given our current budget debate, I appreciate that the fiscal note this bill received will immediately frighten most of the committee. But I do have to question whether all the numbers submitted by the various state agencies outside of the Department of Administrative Services were based solely upon an honest estimate of the fiscal impact or whether it was a desire to stick with the status quo that led to some potential inflation. Rather than allow LB491 to die a quick death by fiscal note, I encourage the committee to take a serious look at both the short-term and long-term benefits in moving towards a performance-based budgeting system by working with our Legislative Fiscal Office to redefine LB491. With that, I thank you for your time and be happy to answer you questions you may have. [LB491]

SENATOR HARMS: Thank you for your testimony, Senator. Would you like the pleasure of closing? [LB491]

SENATOR MELLO: I'll waive closing. [LB491]

SENATOR HARMS: Okay. [LB491]

SENATOR MELLO: And I'll answer questions, first, but I'll waive closing. [LB491]

SENATOR HARMS: Okay. Senator Conrad. [LB491]

SENATOR CONRAD: Thank you, Senator Mello. I know that this is really a key issue for you during your tenure and time in this Legislature, and I think that it's been a real pleasure from my perspective to work with you on trying to reform our budget process to make it more accountable and transparent and to perform in a way that more closely mirrors, I think, the private sector. And I was just wondering, there's a lot of moving parts in this bill here, but I think its core concept is quite straightforward. If we can find some movement on this topic this year, are you open to negotiating the periodic nature of the certain measures that are contained in the bill? I know that in asking questions so far during the various agency hearings, you know, talking about maybe annual, biannual, monthly, and just working with the agencies to find the right balance there. [LB491]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Appropriations Committee  
March 03, 2011

---

SENATOR MELLO: Senator Conrad, that's a great question, and I think, as always with any piece of legislation I introduce, I'm always more than willing to work with the committee to redefine that legislation to try to accomplish the intended purpose and goal of that specific piece. And in conversations prior to today's hearing, I fully understand that the monthly performance measurement requirement that's currently put in the bill could be technically challenging to implement immediately. And from our existing agency hearings, most agencies, when I ask that similar question to agencies, they have indicated a biennial or an annual performance report, knowing that we have a biennial budget process, would be something that they would prefer that we look to move forward as a Legislature if we so choose to mandate any performance measurements or benchmarks. I would, for the record, and because I briefly mentioned it in my testimony, the Pew Center for the States is, I think, a well-respected, nonpartisan organization that focuses on assisting state governments with a variety of subject matters and topics. And one of the first handouts I did provide the committee was their analysis of our current state performance with a host of issues in regards to people, information, money, and infrastructure. And just from their executive summary, and I can let the committee read the more detailed report, it does single out these performance measurements and strategic planning as an area of weakness and/or I guess you could say an area of opportunity for our state government to increase and to enhance our governing structure by, it states, "Although Nebraska has made little progress in using performance measures in the budget process over the last few years, the Unicameral deliberation process is more collaborative than in many other states. Agencies vary dramatically in their capacity for strategic planning and performance measurement, and there is little central enforcement and support. However, there is an apparatus in place for performance-based management." That is essentially the premise of LB491, and this is a report that obviously is not written by anyone in Nebraska; it's written by the Pew Center for the States. And I think for all practical purposes that mechanism is in place, I think, through the Department of Administrative Services. So I'm more than willing to work with the Budget Director and the Budget Division, with Director Oligmueller, as well as the Legislative Fiscal Office and this committee, to help meet the goals of what LB491 is, which is to ensure that as we move forward as a state, every agency provides a biennial strategic plan that's well accessible, outside of the budget process, to Nebraskans, as well as that there is concrete performance measurements that we as an independent branch of government and the public at large can utilize in determining success or failure of any particular state agency or program. [LB491]

SENATOR CONRAD: And, you know, I think sometimes because this is a new concept on the state level, we have some of this activity happening but not really in a uniform manner across different state agencies and different programs within the state agencies. But I think one thing that people sometimes get confused or anxious about is, you know, what's a benchmark or what's a performance benchmark and all these kinds

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Appropriations Committee  
March 03, 2011

---

of things. And I can tell you that, you know, here in the city of Lincoln, Mayor Chris Beutler has instituted performance-based budgeting for our city budget as a whole. And it's fascinating, actually, if you go and look at the Web site and participate in the public processes, of which there are many, in determining what our priorities are as a community and how they should be reflected in the budget. But, I mean, really can't performance benchmarks be something as simple as responding timely to constituents who may call us, or send communications, or..? I mean, I'm just wondering if maybe you could help simplify or break down what some of this policy-wonkish kind of terminology means in the real world for people. [LB491]

SENATOR MELLO: Well, that's a great question, Senator Conrad, and I will wholeheartedly... [LB491]

SENATOR CONRAD: Not that there's anything wrong with policy wonks, let me be clear about that. (Laughter) Let me be clear about that. [LB491]

SENATOR MELLO: As one myself, I would agree there's nothing wrong. [LB491]

SENATOR CONRAD: Yeah. I think that we're all in that boat. [LB491]

SENATOR MELLO: You know, I would second your assessment in regards to what the city of Lincoln, under its current leadership under Mayor Beutler, has undergone over the last few years. It's something that after I was elected to the Legislature, something I took stock in and reviewed thoroughly, because it's a process that no other municipality, and frankly, no one in state government, I would say, really has followed or tried that kind of process, which it really lays out clear benchmarks and lays out clear delineation of priorities and outcomes that are wanted and desired by not only the public but also by the government. I think the unique component is, to some extent, is the realization that as an independent branch of government we find ourselves in the policymaking realm, while the executive branch finds themselves in the management and the implementation realm. And I think the way that generally this...that performance-based budgeting, tied with performance benchmarks, is kind of the nexus of where both independent branches of government meet in the middle. And I think, you know, if you take a look at the last two handouts I provided the committee, you can see that, for example, our Department of Labor, through the budget process--which I know many of us have heard agencies provide their strategic plan and information through the budget process--this is just an example. Program descriptions under Program 194, under Public Protection: I think we had a very lengthy conversation today with the Department of Labor about that program where it goes over some very generic information regarding the programs, program objectives. But if you turn to the last page, that really is where I say the rubber meets the road. You can see that they have listed performance measures for the last four years, and those performance measures are five extremely broad areas that go no further than elevators inspected, amusement ride

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Appropriations Committee  
March 03, 2011

---

inspections, boilers inspected, private employment agencies licensed, minor employment certificates issued. That is one when state agencies come forward and say they have performance measurements, that is what they are providing us if you look in the current DAS budget system. Where, if you look at the other handout that we provided from the state of Maryland, who is one of the forefront leaders in performance measurements and performance-based budgeting, you can see what their StateStat program did for their Department of Labor. I don't think I need to express, obviously, the roughly 40-page document that they provide, on a monthly basis, of measuring pretty much every potential program, objective, and subprogram and objective within their Department of Labor in regards to a monthly process, they determine success or failure. I think, not stating that Nebraska needs to move to a StateStat system overnight, but this I think provides the executive branch in our state an opportunity to take a step back and evaluate what other best practices are out there in regards to developing these performance measurements, because, as listed in LB491, we don't dictate what those performance measurements need to be. Once again, I try to ensure that we follow a very similar understanding, that that is the agency to determine that based on state statute that we've created and the rules and regulations process that they must implement and follow. But all we ask for in LB491 is that they produce those and that we provide I think a more appropriate backdrop in regards to what other states have done compared to what our state currently does. Because it's very tough I think to measure the Nebraska Department of Labor's budget based on those very five broad areas of performance measurements, where at the end of the day that neither helps the taxpayer nor helps the Legislature. [LB491]

SENATOR CONRAD: Right. And just really to get to the...and I think that is a helpful comparison, and this is kind of an overwhelming report, actually, just looking at it, but I imagine it's ripe for a lot of good policy discussions to emanate from. You know, really, I'm wondering if you share the feeling that what performance-based budgeting or zero-based budgeting is really about is about changing or reinventing government to ensure that when we budget we're not just making cuts or additions to whatever last year's budget is, but we're, rather, digging deeper, looking harder, and saying what's working, what's not working, what's relevant today, what isn't relevant today. And, you know, I'm thinking of an example from my time on the committee where we looked at the funding surrounding the Women's Commission in the state of Nebraska. And I think it was shocking to all of the members to know that that state commission received 32 phone calls in a year's period, and it prompted a really important dialogue about whether or not that was the best and highest use of those state dollars to fund that kind of agency. And I'm hoping if we can get more specific information like that, it would be really helpful as we follow Governor Heineman's really impressive leadership in terms of how we can reinvent and redefine government. And he started with this budget cycle I think. [LB491]

SENATOR MELLO: Yeah, I think a key component of that...of your statement, and

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Appropriations Committee  
March 03, 2011

---

whether or not it's a question or not, is the transparency...is the transparency component. I think that's...I mean at the end...what you were getting to I think was the transparency-related issues that come with performance-based budgeting or budgeting for outcomes; that that provides, I think, us as a Legislature but the public at large more information regarding how state agencies are performing. I mean, the Women's Commission issue you raised, it was before my time in the Legislature, but from talking with senators and past senators, former senators, these issues, in general, of commissions in regards to whether or not they're performing their statutory requirements and obligations but also what performance and results are we getting from sometimes these smaller commissions and agencies lends I think a lot of credibility to what LB491 is trying to do. [LB491]

SENATOR CONRAD: That's helpful. Thank you. [LB491]

SENATOR HARMS: Thank you, Senator Conrad. Senator Wightman. [LB491]

SENATOR WIGHTMAN: Thank you, Senator Mello. I look at the fiscal note, and they talk about \$185,000 and \$120,000 and then discuss down below that that doesn't include the administrative and agency time in putting together these reports. And so often the devil is in the details--and there's certainly a lot of details in the Maryland report. I'm wondering if you could address the issue of...obviously, setting up a Web page and putting this on the Web page is not that big an issue, probably, and that's probably what's addressed by the fiscal note to a great extent. [LB491]

SENATOR MELLO: Senator Wightman, that's a great question and I'll do my best to provide I think a measured perspective as I understand a little bit more about the inner workings, I think, of our state government. I fully understand and can appreciate state agencies needing to utilize one-time funds to do technology programming. I think we just heard from the state's CIO where technology is the driving force in all layers of government, which ultimately saves taxpayer dollars we'd be able to utilize for various purposes. In regards to the fiscal note, I think there are a few layers or a few areas that we as a committee could discuss in the sense of whether or not there is existing one-time cash funds that are available for the Department of Administrative Services to do the technology that's needed or the technological upgrades that would be needed for their back-end database to be able to provide this...collect and provide this information. But I also fully appreciate and can understand that this is left, to some extent, to the interpretation of the executive branch. As a small agency might be able to provide, once again depending upon what this committee chooses to do if we as a committee would choose to make these biennial performance measurements, that's significantly different and it's a significantly different amount of workload associated both with the Department of Administrative Services as well as state agencies, because they would produce this information twice a year instead of 12 times a year. I think those are the kind of compromises and policy debates that we can have internally as a committee to try to

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Appropriations Committee  
March 03, 2011

---

find a way forward. But in that same sense I think we as an independent branch of government need to ask ourselves: How are state agencies currently operating without strategic plans that are laid out, as in LB491, with very basic requirements? And how is it that our state agencies are operating to the utmost efficient way they can without having some kind of performance measurement put in place that they can simply report, whether it's through a Word document or it's through a technological change that the Department of Administrative Services could allow them to upload that information? I think that is maybe the bigger question and the underlying issue in this legislation is, how is it that agencies currently aren't already doing this? And by looking at the example I gave you of our own Department of Labor, I think we can acknowledge as a committee or as individuals that the need for more information and the need for better management and better planning is a must if we're going to I think have a state government that operates in the twenty-first century. [LB491]

SENATOR WIGHTMAN: And I would agree with much of what you're saying and there's probably a good deal of difference between the Maryland Department of Labor report that has been generated and the Nebraska report, but there's a lot of room in between. And I suspect that it would take quite a number of personnel hours to put together a report like this even though putting it on the Web page is relatively easy. If it took two or three people on a full-time basis to generate this kind of report, then how efficient is that? I guess I get down to weighing the benefits against what the problem of cost would be, and I certainly don't know what the cost would be. [LB491]

SENATOR MELLO: Senator Wightman, that's a very, very valid question in the sense of weighing I think the cost-benefit analysis of staff time and administrative time in comparison to the final output which I think performance data that the public at large and this branch of government can utilize to determine whether or not the decisions we make as a committee to appropriate a specific amount of funds actually meets the intended purpose that that agency said it would. Once again, I'm a believer in technology, and I'm a believer that good technology done right, and good management done right, can mitigate I think a significant amount of these fiscal problems or fiscal note concerns that agencies have raised. By all means, I think the question is once again we have to ask ourself: Does an agency need an additional staff person to manage what individual staff people who are managing programs should already be doing? If you, Senator, are a director of a program within any set agency, one would assume that you would have performance measurements put in place to determine your success or failure for that program on a host of related issues, because your funding as a program depends on it. I think that's the question that we need to continually ask ourself. And LB491, we've heard from a host of agencies through this year's agency hearings that many say this is...they're currently already doing this. So if that is the case that they currently are already doing this, I would think that we as a committee could make some changes to LB491, make it statute, and we would see no fiscal impact because that is what they're doing. [LB491]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Appropriations Committee  
March 03, 2011

---

SENATOR WIGHTMAN: One follow-up question. This would go only to state agencies, not to local subdivisions of government? [LB491]

SENATOR MELLO: Correct. And the amendment, because I think of their unique nature of higher education in the sense that they are...in general, we never intended state colleges or the university system to be part of this, that our amendment takes them out. They still are required to do...every agency is required to do a biennial strategic plan, but performance measurements as a separate noncode agency that higher education already is, they are essentially...their oversight is provided by the Postsecondary Coordinating Commission. So I felt it was a little redundant to include them in this bill because there currently already is I think an oversight and a performance oversight that the Postsecondary Coordinating Commission provides over higher education. [LB491]

SENATOR WIGHTMAN: So would the next step be to make the same provisions with regard to local political subdivisions? [LB491]

SENATOR MELLO: I think local political subdivisions, I think maybe the next step would be trying to provide more transparency with local political subdivisions, and that's an issue that my office will be working on over the interim in regards to doing an interim study, in regards to looking to ensure that similar provisions that we put in last year's LB...or two years ago, LB16, regarding the transparency taxpayer Web site, that we'll look to see what we can have local governments do something somewhat similar. [LB491]

SENATOR WIGHTMAN: And maybe if we were to go on down the road with the same idea, it ought to be limited to local governments that we're providing support to, which is a lot fewer than it was...well, it may be a lot fewer than it was some short time ago. [LB491]

SENATOR MELLO: And this issue...Senator Wightman, by all means. If this is an issue of looking to have LB491 apply to local political subdivisions, whether in the immediate future or somewhere down the road, I'm more than willing to have that dialogue with the committee. I think government performance at all levels of government needs to be examined and needs to be instituted and formalized to ensure that taxpayers--as well as those who are appropriating funds--fully, completely understand the ramifications of where those funds are going and the performance that we get from those funds. [LB491]

SENATOR WIGHTMAN: Thank you, Senator Mello. [LB491]

SENATOR HEIDEMANN: Senator Fulton. [LB491]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Appropriations Committee  
March 03, 2011

---

SENATOR FULTON: Thank you, Mr. Chairman. Senator Mello. The...let's say if LB491 were law today, would that which has been submitted by the Department of Labor satisfy the law? I mean it's clear this isn't satisfactory to you, and frankly, I agree it's not satisfactory. But would that not meet what would be explicated in the law if this were passed? [LB491]

SENATOR MELLO: There would need to be some changes, and I would...I won't speak for him but I believe the Department of Administrative Services may come up after me and provide maybe their perspective on how the current system may change if we adopt LB491. For certain, there would be I think a different component of the strategic planning process we lay out in LB491, some guidelines or some guideposts for information and strategic directions that agencies need to be able to evaluate looking forward, as well as providing I think a retrospective take on their state agency. The performance components, depending upon where the committee so chose, if LB491 was existing law I think we would see to some extent a hybrid version of what Senator Wightman was discussing and where you see the state of Maryland who provides a significant number of performance benchmarks under all their programs on a monthly basis, compared to where you see five one-line general categories under our performance measurements under our Department of Labor. So I think you...depending upon the agency, you would see I think different information and I think it would be a hybrid version between what you see here, which is a monthly report, and this which is a biennial report essentially of saying here's where we're at every two years. [LB491]

SENATOR FULTON: Okay. Thank you. [LB491]

SENATOR HEIDEMANN: Any other questions? Seeing none, thank you for... [LB491]

SENATOR MELLO: And I waive my closing, Chairman. [LB491]

SENATOR HEIDEMANN: Thank you, in a matter of time. Is anyone wishing to testify in support of LB491? Gerry is going to wait for later then? (Laugh) Does anybody want to testify in opposition of LB491? Welcome, Gerry. It's always a pleasure when you come down and visit us on our side of the building. [LB491]

GERRY OLIGMUELLER: (Exhibits 10-12) I can imagine. (Laugh) And I'll be glad to do it as often as you would require it too, as well, so. Senator Heidemann and members of the Appropriations Committee, for the record my name is Gerry Oligmueller. My name is spelled G-e-r-r-y O-l-i-g-m-u-e-l-l-e-r. I am the state budget administrator and administrator of the Administrative Services State Budget Division. LB491 amends the state laws related to the biennial budget process to essentially do at least four significant things that relate to the State Budget Division: require each department, office, institution or expending agency to file a biennial strategic plan and monthly performance measurements; require the State Budget Division to prescribe the forms

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Appropriations Committee  
March 03, 2011

---

and procedures used by state agencies to submit a biennial strategic plan and monthly performance measurements for each program, subprogram, and activities; require the State Budget Division to work with each state agency in developing a strategic plan and performance measurements; and fourth, require the State Budget Division to prepare a monthly report for each state agency showing progress towards outcome measures in each state agency's biennial strategic plan. There are over 75 state agencies, boards, and commissions, 27 institutions and campuses, and numerous additional activities operating under the auspices of these state agencies and commissions. The mandate in LB491 that the State Budget Division issue a monthly report on the progress of each of these entities towards the outcome measures in each of their biennial strategic plans is impractical. Monthly reporting is burdensome due to the additional time and cost that will occur throughout state government to record, collect, validate, and send such information monthly to the State Budget Division in order for me to produce a monthly report about progress towards each outcome measure in each strategic plan. I support the submission of a strategic plan and performance measures by state agencies, boards, and commissions as part of the biennial budget submission. The State Budget Division issues budget instructions, including changes or addendums to those instructions recommended by the Legislative Fiscal Analyst as required in current law. While current state law does not specifically require submission of a strategic plan and performance measures with the biennial budget request, the budget instructions issued by the State Budget Division do require each state agency to submit the following information as part of their biennial budget request. At the agency level: a listing of statutory authority, otherwise termed by many as the mandates placed upon the agency; a vision statement; a statement of mission and principles; a statement of goals; information in an executive summary nature, including information about their management process and service delivery methods. And I'll review with you in a minute another handout that I provided regarding the instructions specifically. But at the individual appropriated program level: program description; program objectives; performance measures--inputs, outputs, efficiency, outcomes, and quality; request priorities and significant issues. A copy of the relevant pages of the budget instructions have been provided to you. The information submitted by each state agency every even-numbered year on September 15 is shared immediately with the Legislature and immediately posted on the State Budget Division Web site. The additional cost associated with LB491, as detailed in the fiscal notes, is problematic. The State Budget Division has been conservative with its estimate of LB491's cost to the division by not including an enhanced role for the division as it works with state agencies, boards, and commissions on strategic planning and performance measurement. There was an earlier reference made to the Pew report, which I have coordinated for the state of Nebraska each time the Center on the States has conducted the grading of the states for the 50 states in the United States, and I would indicate that. The section on money, which includes the budget process in 2008, was graded A minus by Pew. The Pew report goes on to suggest that both the executive and legislative branch can make improvements in the use of the performance aspects of the budget process. But the

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Appropriations Committee  
March 03, 2011

---

budget process certainly is about more than just reporting for reporting's sake. It's certainly about significant issues related to state finance. I've done some benchmarking specifically with regards to the state of Maryland and StateStat. In fact, I know the budget staff person, personally, in Maryland who interfaces with that. And StateStat is principally an executive branch performance management tool, not a results-based budgeting or budget process element within the state of Maryland. I guess I'd ask you to look briefly at the budget instructions which I shared with you, simply to point out that the sections that are highlighted in yellow are noted to clearly indicate what is communicated as part of the budget instructions, and which form the basis of and the framework for which agencies prepare their budget submission. This has evolved, if you will, over the last 10-15 years kind of on an incremental basis in terms of the content and the expectation placed upon the individual agencies of state government to the point you see it illustrated here today. But I think you will note that the specific content asked of state agencies is pretty much from the literature with regards to performance-based budgeting or results-based budgeting. And so the framework is there. It's part of the instructions that biennially are subject to review by the Legislative Fiscal Office to make certain that this committee in particular, and the Legislature in general, is getting the information you would expect as part of the biennial budget process. And with that I would ask if you have any questions. [LB491]

SENATOR HEIDEMANN: Senator Conrad. [LB491]

SENATOR CONRAD: Thank you, Gerry. Appreciate you coming down and appreciate this information. And the way I...I guess the two major points I'm taking from your testimony are, one, that there's a real sticking point on the monthly requirement for any potential reporting if this committee decides to advance this legislation. And I hope you heard Senator Mello say I think that he'd be willing to work with folks to try and change some of those parameters to ensure that we can keep the fiscal note as low as possible and not to encourage any additional regulatory or bureaucratic burden for any agency, but to be responsive to what their real needs are and obligations. So if we take away the monthly performance measurement component and say we're open to changing that to an annual or biennial kind of component...that's kind of my first question, I guess, is if that piece was gone or modified, does that ease some of your concerns in terms of LB491 as a whole? [LB491]

GERRY OLIGMUELLER: I would probably begin by indicating that the current process has in place a mechanism for biennial reporting, so that exists. The framework is there. [LB491]

SENATOR CONRAD: Right. And... [LB491]

GERRY OLIGMUELLER: And the agencies do it to one degree or another better than one another. And so it becomes an issue of the extent to which we're using that

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Appropriations Committee  
March 03, 2011

---

information. Those instructions today produce about 23,000 pages of information that are posted to the Web as a consequence of us automating the biennial budgeting process, so. [LB491]

SENATOR CONRAD: Yeah. And I don't disagree with that at all and I think there's actually probably a lot more that's similar rather than dissimilar between these two concepts, and whether you call it, you know, a vision and mission and principles and goals, or a strategic plan and performance benchmarks, I think the concepts are actually really, really close in trying to ensure that we have transparency and accountability in government. But there's no question that this is a shift in terms of how things have been previously done in our budgetary process. And, you know, it seems to me, reading the literature from other states, that particularly now we're starting to look at these ideas to find solutions during difficult economic times. In order for it to be really successful it has to be a partnership between the Legislature and the executive branch. It seems to me, anyway, that that's where the most interesting models are. And so I know that Senator Mello is, if anything, persistent (laugh), and I'm guessing that we'll have an opportunity to continue to talk about this, if not this year, but through the course of his tenure. And I really would like to find some way that the Legislature and the executive branch could work together, because I think if we could improve some of our existing systems--which are good, as you note--but also recognize that there's always room for improvement, that it could be a mutually beneficial kind of process. But maybe the best way to do that is over an interim and in cooperation, or maybe the best way to do it is through LB491, I don't know. But I really...just any feedback about the cooperative posture that may or may not exist in other states in order to really effectuate key policy reforms in this area. That's a lot, I know. [LB491]

GERRY OLIGMUELLER: Was there a question in there somewhere? I'll kind of go... [LB491]

SENATOR CONRAD: "Ish." Yeah. [LB491]

GERRY OLIGMUELLER: ...(laugh) I'll kind of go with it this way. I certainly, you know, applaud Senator Mello for his interest and commitment to this issue specifically. I hope I have shared a considerable amount of information that is, or might be, new for some of you. I'd also say that, you know, on the spending side, on the financial side, there's sort of been this focus on what the Treasurer's Office is doing by way of a Web site. What I'll tell you today is that long before that Web site existed, the Department of Administrative Services posted on the Web, monthly, allotments and spending for the month and year to date for every agency in state government, including higher education. There's a lot of unique aspects about how Nebraska has worked, historically, and continues to work historically with regards to this biennial budget process. That relationship in a real detailed sense is as defined in Section 3 of this bill. I cannot issue budget instructions without consulting the legislative branch of government to make certain that your

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Appropriations Committee  
March 03, 2011

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interests by way of information and process will be satisfied as a consequence of this mission of the request from the various agencies, and so that is done and has been done every time I've issued budget instructions. And to the extent that the Legislature feels they're not accommodated in that process, they have the opportunity to actually append to the executive branch communication budget instructions their own supplemental requests. So just by way of a response I'd say we probably have a more transparent budget process than most if not any state in the United States of America, beginning with the fact that the information submitted on September 15 is shared with the legislative branch. In some states that doesn't occur. That information is held by the executive branch and only shared when the governor offers recommendations at the beginning of a legislative session. And I suspect there are very few, if any, states that consult the Legislature before communicating with the various agencies throughout the executive branch as well as the other two branches of government regarding their biennial budget submission. So I would put us, on a scale of 1 to 10, far and away ahead of most, if not all, of the other 49 states. [LB491]

SENATOR CONRAD: No, I really appreciate your response and that's helpful. I didn't know about that additional budget direction authority that may exist already. And I think it is important to note that there are some unique aspects to Nebraska's process. But it's fantastic information for consideration. Thank you. [LB491]

GERRY OLIGMUELLER: Yeah. [LB491]

SENATOR HEIDEMANN: Senator Nordquist. [LB491]

SENATOR NORDQUIST: Thank you, Mr. Chairman. Thank you, Gerry. So currently we're...or we ask them for statutory authority, vision, mission, goals, and then we ask them for some performance measurements that, looking at the example provided here today maybe wasn't...didn't hit the mark on what we needed. But do you think that we're getting enough timely information to assess whether or not those goals are being achieved and whether or not the statutory obligations, whether we're making progress towards meeting those statutory obligations in a more efficient manner? [LB491]

GERRY OLIGMUELLER: I think the amount and the quality of that information is totally dependent upon the extent to which it gets used. [LB491]

SENATOR NORDQUIST: So I guess just looking at the example today, I don't know if you got a copy of it or not, the Department of Labor's numbers. I mean it's just raw data, whether or not we're...how many we're inspecting--boilers, elevators, etcetera. I don't know that that information is giving us...is sufficient information to say whether or not we're achieving the goals and missions laid out in their budget document there. And I don't know if it has to be through this bill or maybe it's additional clarifying language as to what we're looking for, for performance measurements in the document that you

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Appropriations Committee  
March 03, 2011

---

submit to them, and I certainly will take some time to review what is being submitted for those measurements currently. But I think that, on that example, that that doesn't tell us whether or not they're doing it in an efficient manner and whether or not they're making any progress towards any achievable goals. [LB491]

GERRY OLIGMUELLER: I mean.... [LB491]

SENATOR NORDQUIST: So that was just a comment, yeah. [LB491]

GERRY OLIGMUELLER: Right. I guess we'd have to... [LB491]

SENATOR NORDQUIST: Oh, I'm sorry. Not...that wasn't that one. I was thinking the state, so. There you go. [LB491]

GERRY OLIGMUELLER: I have both. Senator Conrad provided me with both. [LB491]

SENATOR NORDQUIST: I guess that was more of a comment but...than a question. But, you know, unless you have any thoughts on whether or not we do have sufficient information to say, yes, we are hitting, you know, the goals that they've laid out or we're not. [LB491]

GERRY OLIGMUELLER: Well, you know, that's an individual judgment that I think each of you make in the context of your interest and your issues and the decision you would or would not like to make with regards to a specific agency program or activity within any one of these agencies, so. There's always room to ask for more information. There's always more information that can be provided. [LB491]

SENATOR NORDQUIST: Certainly. [LB491]

GERRY OLIGMUELLER: I certainly wouldn't want to do to you what the Commissioner of Labor in Maryland did to whoever they provided this to, quite frankly, depending upon what you were asking for. Because what you're asking for really might be the one item in the middle of 20 pages of detailed statistics that would be more productive and responsive to your question. So reporting for reporting's sake? No. Reporting volumes and volumes and volumes of information for the sake of suggesting that 50 pages is better than 1? No. It's a process of determining what critical...what you feel is critical information, engaging in that discussion with our reporters, if you will, so that those sort of critical success factors you're trying to hunt down are the ones that are reported. [LB491]

SENATOR NORDQUIST: I agree with you, and just looking at that report from Maryland, I think that would be useful for someone on the ground every day determining whether or not they're hitting that, but it's probably a little off the mark for what

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Appropriations Committee  
March 03, 2011

---

legislators and the general public would need. I know last year, I think it was, we brought the university in to talk about their process, and they laid out a nice...I don't know, maybe it was nine or a dozen key goals of, you know, hitting certain enrollment benchmarks and tracking that over time. I think that's probably more of what we need to look at is saying here are the key, you know, dozen or so--you know, it could vary by agency depending on their missions--key goals. Are we making progress towards those? And I guess understanding what we do here, has the executive branch with code agencies ever gone beyond just sending out, you know, to the agencies, saying here, please provide us some performance measurements? Ever sat down with them and say, here are the performance measurements we think are important to your mission; let's talk about these and identify 10, 12 metrics that we think are critical for you to meet? [LB491]

GERRY OLIGMUELLER: That occurs when and where it needs to occur. I would say the Budget Division specifically is not resourced to engage on a reoccurring basis with every agency of state government to move them along in the context of strategic planning and performance measurement. I have counterparts in other states who have separate divisions, with staff, who undertake only that responsibility. So, you know, to give you a real quick contrast, the Budget Division is 10 FTE strong. Its resources are 40 percent less than your committee staff, okay? So the amount of time and the amount of information and the scope of decisions that have to be pursued, you know, sort of limit the extent to which you engage in that level of activity. [LB491]

SENATOR NORDQUIST: I understand that. I guess the last question, kind of within the confines of statutory authority and obligations, does the Governor...or I guess the executive branch sit down at a higher level with code agencies and talk about what the goals are? I guess not breaking down to the performance measure, but what are the broad goals? I mean does he...is that a conversation that's had? [LB491]

GERRY OLIGMUELLER: Periodically. [LB491]

SENATOR NORDQUIST: Okay. That's it. Thank you. [LB491]

SENATOR HEIDEMANN: Senator Wightman. [LB491]

SENATOR WIGHTMAN: Thank you, Mr. Chairman. Thank you, Gerry, for the information you've given us and your testimony. You mentioned the Pew report at some time early in your presentation, I think, and said we had an A minus. And this may not be the report you're referring to but I think Senator Mello gave us what's called a Government Performance Project. [LB491]

GERRY OLIGMUELLER: Right. [LB491]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Appropriations Committee  
March 03, 2011

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SENATOR WIGHTMAN: And maybe these have changed since this came out, but it only shows four states in the A minus and none above that, and shows us in a B, but does place us in a group of five that don't happen to make the top eight. There are eight ahead of us and five, so it's still a pretty good performance. And I think it rates all 50 states. Even one got a D plus, so. Is this the one you were referring to in the A minus rating, or? [LB491]

GERRY OLIGMUELLER: Actually...what they actually do is they do an overall grade and I believe we were a B... [LB491]

SENATOR WIGHTMAN: Right. [LB491]

GERRY OLIGMUELLER: ...in the context of an overall grade. They break down into sections, one of which is money, okay? [LB491]

SENATOR WIGHTMAN: We were A, I think, in that. [LB491]

GERRY OLIGMUELLER: I think we were A minus in that category. That category, from Pew's perspective, includes budget process, okay? There's actually another section that relates to information and information management that goes more to the issue of performance measures, okay? [LB491]

SENATOR WIGHTMAN: And we were B minus in that. [LB491]

GERRY OLIGMUELLER: And somewhere in that report, I think maybe in that section, they infer that Nebraska, for example, could show improvement in the use of performance information. And they make that reference in regard to both the Legislature and the executive branch. So...and then I forget all our previous grades, but we've been through that... [LB491]

SENATOR WIGHTMAN: By way of comment, I know Senator Mello somewhat held out Maryland as being someone we should aspire to be, I guess. But I see they're rated in the same group of five that we are, and they are rated ahead of us but I think only because M appears earlier than N in the alphabet. [LB491]

GERRY OLIGMUELLER: Yeah. That could be the case. [LB491]

SENATOR WIGHTMAN: Well, it is alphabetical or I think it is. [LB491]

GERRY OLIGMUELLER: Yeah. Yep. No, I mean...you know, the involved budget staff person in Maryland is someone I've been acquainted with for about 15 years now. And Virginia Performs is also often held out as a state by way of example. I did a little benchmarking last night with regards to Virginia Performs, and it looks like Virginia

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Appropriations Committee  
March 03, 2011

---

Performs has gone stagnant since 2008, and I suspect that has something to do with gubernatorial changes that occur in the state of Virginia more frequently than they occur in some other states. So you do have...when you get into these state-by-state comparisons, you do have the issues of the structure of the government and the politics of that state that oftentimes dictate how things proceed. Given that, I'd still say that because of the kind of governance structure we have in Nebraska and the size of our state, that there's been significantly more cooperation. It's challenging for an executive branch budget division when there are more agencies that do not report directly to the Governor, so when I issue a set of budget instructions they can measure the extent to which they feel a need to be particularly responsive to a call for a goal statement or objectives or to be responsive in terms of providing performance measures, because they are hired and they are fired by someone other than the Governor. [LB491]

SENATOR WIGHTMAN: Thank you. [LB491]

SENATOR HEIDEMANN: Senator Nelson. [LB491]

SENATOR NELSON: Thank you, Senator Heidemann. Are you familiar with this StateStat report, budget stat report that Maryland puts out there? [LB491]

GERRY OLIGMUELLER: State...okay, my... [LB491]

SENATOR NELSON: It's called the StateStat, and I think you referred to it maybe as a secondary or supplementary type of statistical reporting. [LB491]

GERRY OLIGMUELLER: Pew actually brought me into a meeting in D.C. at their expense to experience what, previous to StateStat, was CitiStat. The governor of Maryland was previously a mayor and had established CitiStat. And what I observed in that...they actually brought in the city officials to engage in a mock demonstration of CitiStat. And what I observed was the application of that tool as a management technique, not as a technique to facilitate macro-level policy or financial decision making by an appropriations committee or the legislature. So now I'll stop there and say I haven't delved recently into exactly what they're doing with StateStat in Maryland other than to have visited with the staff person to ask him: How is your budget office engaging in the application of that exercise in Maryland? And basically what he said is: I show up at the meeting as one of the respondents. But the application he shared with me that day was clearly one of a management technique, not a reporting tool that appends in any way to a biennial budget submission or an annual budget submission. Perhaps they've evolved that somehow I'm not familiar with. [LB491]

SENATOR NELSON: Even monthly performance? I mean do we do anything like this in the state of Nebraska? [LB491]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Appropriations Committee  
March 03, 2011

---

GERRY OLIGMUELLER: StateStat? No. [LB491]

SENATOR NELSON: No. Okay. You know, I just, thumbing through it, I just don't see much useful information in there as far as performance-based and budget. And you talk about pages and pages and the amount of time, you know, input it would take to do something like this. I just...well, we're not doing it so it doesn't make any difference, but. [LB491]

SENATOR HEIDEMANN: Any other questions? Senator Conrad? Were you done, Senator Nelson? [LB491]

SENATOR NELSON: Yes. [LB491]

SENATOR HEIDEMANN: Okay, Senator Conrad. [LB491]

SENATOR CONRAD: Just to be clear, Gerry, I think in preparation for this hearing did you mention that you were benchmarking the other benchmarks that were out there, from Virginia to Maryland, is that right? [LB491]

GERRY OLIGMUELLER: Well, I didn't do Virginia. I did do...well, I did do Virginia. I didn't do Maryland last night, but I did Virginia because I was aware of a gubernatorial change that had occurred there, and I was interested to know whether or not it would appear to me by looking at the information they're reporting on the Web that Virginia Performs is surviving. Okay? [LB491]

SENATOR CONRAD: I just wanted to make sure to note for the record that I think that you've gone out of your way to set the bar really at an impressive height in terms of policy-wonkish behavior. I mean you're benchmarking the benchmarks. That's something I think that just can't go unnoticed. So bravo. [LB491]

GERRY OLIGMUELLER: Well, thank you. [LB491]

SENATOR HEIDEMANN: Any other questions? Seeing none, thanks, Gerry. [LB491]

GERRY OLIGMUELLER: Yep. [LB491]

SENATOR HEIDEMANN: Anyone else wishing to testify in opposition on LB491? [LB491]

SENATOR MELLO: I'd like to close actually. [LB491]

SENATOR HEIDEMANN: Just a second, Senator Mello. Is there anyone wishing to testify in the neutral position on LB491? Seeing none, even though Senator Mello said

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Appropriations Committee  
March 03, 2011

---

he wasn't going to close (laugh),... [LB491]

SENATOR MELLO: I will not pass up this opportunity of correcting a few...I guess a few statements or points, so to speak. Senator Wightman, you raised the question in the sense of this is the same report that Director Oligmueller and myself were referring to. Nebraska is ranked at B minus in our information. And Director Oligmueller mentioned that that...it's our lowest ranking of this report is in that information area, which includes performance benchmarks and performance measurements, which is the crux of what LB491 is. The second issue I'd like to draw to the committee's attention is if you turn to page 8 on the StateStat report and then turn to the last page of the Nebraska Department of Labor report, you will see the similar category areas in regards to elevator inspections, and you will see a half-page documentation of elevators inspected, the types of elevators, vacant positions within that category, as well as citations for businesses and/or the state who failed those elevator inspections, where I believe just from today's hearing regarding the Department of Labor, we had a very difficult time of walking them through their entire budget process to figure out how they were going to actually fund the elevator inspection area, let alone provide any benchmarks or performance data associated with that subcategory. So to say that this kind of information is useless I think is somewhat exaggerated in the point that we had a very engaging conversation today with the Department of Labor where they had an extremely difficult time of walking themselves through how they even finance their elevator inspection area. That's neither here nor there. I appreciate Director Oligmueller's perspective in regards to whether or not we currently need LB491. I would like to draw to the committee's attention that the collaborative process that Director Oligmueller discussed in regards to the legislative and executive branch in regards to our budget process is statutorily required. This is not something that we do at a whim or on will. As Director Oligmueller mentioned, Section 3 on this bill states that if the executive branch chooses to move forward with budget instructions, they must get it signed off by our Legislative Fiscal director, which is in state statute. So to some extent we have a unique form and I think a unique governance in regards to the collaboration between the legislative and executive branches, but that's done on purpose and that's done through state statute, which LB491 would further expand that to ensure that the executive branch, primarily with all executive branch agencies, would be required to do strategic plans, put that publicly available on their Web site, as well as do performance measurements right now on a monthly process. But I think we can look to negotiate that on a biannual or semiannual or annual process. With that, I'd take any further questions, Mr. Chairman. [LB491]

SENATOR HEIDEMANN: Senator Mello, does your office personally have a strategic plan and performance measures about what you accomplish? [LB491]

SENATOR MELLO: You know, I think in the sense of my specific management style, we do weekly reports, in the sense of staff in regards to providing the information and the

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Appropriations Committee  
March 03, 2011

---

duties that they accomplish on a weekly basis, in the sense of planning our own strategic plan. To some extent I think, with the general nature of my inability to be in Lincoln 365 days a year, we have to utilize a little telecommuting process and telecommuting management style where we lay out our strategic plan on average by an every two-week, a bimonthly process, of what needs to get done in a strategic fashion and review that on a weekly basis. [LB491]

SENATOR HEIDEMANN: Would you be willing to share that? I mean is it written or just...? [LB491]

SENATOR MELLO: You know what, Senator Heidemann? If you would like copies of my staff's weekly plans I'd be more than willing to show them to you if you would like to review them, I think to some extent, you know, if that is... [LB491]

SENATOR HEIDEMANN: It could be helpful. You know, as I try to get the most out of my staff in my office, knowing how you operate, I could maybe learn a thing or two. [LB491]

SENATOR MELLO: You know what? I, as a student, I think a student of management myself, I try to employ that same mind-set, Senator Heidemann, on many levels, both my personal and professional life. So if this is an issue that you'd like to further explore, I would be more than willing to sit down and walk you through some of my management techniques and management strategies as a supervisor, and provide you some of my staff's weekly reports to show what we work on. [LB491]

SENATOR HEIDEMANN: Thanks, Senator Mello. Are there any other questions? Seeing none, thank you today, for introducing LB491, and that will be it for the day. [LB491]

SENATOR MELLO: Thank you. [LB491]