

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

Government, Military and Veterans Affairs Committee
January 19, 2017

[LB27 LB89 LB90 LB101 LB151]

SENATOR MURANTE: The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Thursday, January 19, 2017, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB27, LB101, LB151, LB89, and LB90. Senators present: John Murante, Chairperson; Tom Brewer, Vice Chairperson; Carol Blood; Tom Briese; Joni Craighead; Mike Hilgers; John Lowe; and Justin Wayne. Senators absent: None.

SENATOR MURANTE: (Recorder malfunction) My name is John Murante, I'm the state Senator for District 49 which includes Gretna and northwest Sarpy County and I'm the Chairman of this committee. We are here today for the purposes of conducting five public hearings. We will be taking the hearings up in the order in which they appear on the agenda which is listed outside of this room. If you are here to testify on any of the matters before us, we ask that you fill out one of these green sheets of paper. The green sheets are located on either side of this room. If you're here and wish to state your support or opposition to any of the matters before us but do not wish to testify, we ask that you fill out the sign-in sheet and state your support or opposition of any of the matters before us and I can assure you your opinions will be taken into consideration just as if you had testified. If you do testify, we ask that you begin your testimony by stating and spelling your name for the record, that's very important for our transcribers. Our order of business is that we will permit the introducers of legislation an opening statement that will be followed by proponents, then opponents, followed by neutral testimony, and the introducer will be afforded an opportunity to close. We ask that you listen very carefully to try not to be repetitive. In the Government Committee, we do use the light system. Each testifier is permitted four minutes to speak; when the yellow light comes on, you have one minute remaining and we ask that you begin concluding your remarks. When the red light comes on, we ask that you conclude your remarks and we will open up the committee to any questions that they may have of you. At this time, I would ask everyone in the audience and all committee members to turn off or silence any cell phone devices. With that said, we are a committee that is equipped for technology, so you may see members on laptops or other electronic devices, they're taking notes and paying attention, I assure you. If you have any prepared statements or exhibits, anything that you would like distributed to the committee, we ask that you provide 12 copies to the page and the page will distribute it to us. If you do not have 12 copies, that's fine, again, deliver it to the page and he will make copies for you. And with that we have the rundown of how things operate here today. And I will introduce the members. To my far right, Senator John Lowe from Kearney, Nebraska. To his left, Senator Tom Briese of Albion. To his left, Senator Mike Hilgers from Lincoln, Nebraska. Senator Tom Brewer from Gordon, Nebraska; Senator Brewer is the Vice Chairman of this committee. To my immediate right is Andrew La Grone, who is the committee legal counsel. And before I proceed, I'd like to recognize Christy Abraham, my former legal counsel of the Government, Military and Veteran Affairs Committee and welcome back, Christy; it's always good to see you. To my left, Senator Justin Wayne, state

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

Government, Military and Veterans Affairs Committee
January 19, 2017

Senator from Omaha. To his left, Senator Joni Craighead, also from Omaha. To her left, Senator Carol Blood from Bellevue. And to the far left, Sherry Shaffer is the committee clerk. And that concludes our order of business. I will turn the committee over to our Vice Chairman as I introduce the first piece of legislation on the agenda.

SENATOR BREWER: Please, have a seat. Good morning, welcome.

SENATOR MURANTE: (Exhibit 1) Thank you, Mr. Vice Chairman, members of the Government, Military and Veterans Affairs Committee. For the record my name is John Murante, J-o-h-n M-u-r-a-n-t-e, I represent the 49th District in the Legislature which is comprised of Gretna, Chalco, and northwest Sarpy County. I'm here today to introduce LB27. LB27 is a bill that was brought to our office by the Nebraska State Auditor. It is a compilation of technical changes that stems back from several meetings with their office over the last year and a half or so. Among the various technical aspects of the bill, LB27 authorizes the Auditor of Public Accounts to appoint a special designee to attend Suggestion Award Board meetings and to appoint two or more assistant deputies. Additionally, LB27 would assess a 14 percent per annum interest rate until...from the date of billing on delinquent payments of any fees for audits and services owed to the APA unless paid within 30 days from the date of billing. Finally, the bill allows the Auditor of Public Accounts, at his or her discretion, to share working papers other than personal information and telephone records with the Legislative Council, the Attorney General, the IRS, the Tax Commissioner, the Federal Bureau of Investigation, a law enforcement agency as defined in state statute, and the Nebraska Accountability and Disclosure Commission. The working papers may be shared with such entities during an ongoing audit or until...or after the final audit report is issued. I'm also offering an amendment that serves to further clarify some pieces of the bill and resolve some of the concerns that came from various parties. As I said, this is a bill that is introduced on behalf of the Auditor of Public Accounts, his representative and former member of this committee, Russ Karpisek, is here who is really the expert on all matters related to the Auditor of Public Accounts and he will be here to answer any questions you have. Thank you. [LB27]

SENATOR BREWER: Anything else? [LB27]

SENATOR MURANTE: Nope. [LB27]

SENATOR BREWER: Thank you. [LB27]

SENATOR MURANTE: Thank you. [LB27]

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

Government, Military and Veterans Affairs Committee
January 19, 2017

SENATOR BREWER: Okay. Any proponents? Come and sit here. [LB27]

RUSS KARPISEK: Thank you, Senator Brewer, members of the Government Committee. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k and I am the legislative liaison for the Auditor of Public Accounts, Auditor Charlie Janssen. Auditor Janssen sends his regrets today, but he is doing...something is going on in D.C. tomorrow that he wanted to see. I'm not real sure what he was talking about. Senator Murante has described LB27 very well, how it works on paper. And I would like to tell you why the Auditor's Office needs this bill and the situations that have brought it forward. Again, as Senator Murante has said, the Auditor provides forms annually to all political subdivisions requesting information about trade names, corporate names, or other business names under which the governing body operates in agreements to which the governing body is a party under the Interlocal Cooperation Act and the Joint Public Agency Act. This is where the problem starts. There are no teeth in statute to make anyone comply. We all know that Nebraska has 93 counties, but yet we only have about 59 counties that have filed these forms for interlocal agreements. I'm very sure that all 93 counties have some interlocal agreements. There are roughly 2,700 political subdivisions--cities, villages, schools, fire districts, and others that may have interlocal agreements. We would like to have a good database recording these interlocal agreements of the political subdivisions for the public to be able to search and also help our auditors to know what is out there when they do an audit. There are many governing bodies that do business under trade names, corporate names, or other business names that most people would never think of being a public entity operating based on interlocal agreements between political subdivisions. These connections need to be known if something goes wrong or someone needs to know who to contact and who the actual owner or responsible parties are of the entity. In the bill, we are asking to change dates of when information will be requested and provided to our office. This is done to coincide with budgets that are ready, need to be sent in. We are also asking for a \$500 penalty. And this is, of course, again, to try to put some teeth into statutes so the information is received on time. The bill also states that state agencies shall not enter into contracts for services with an unspecified or unlimited duration and that no contract shall be extended for a period of more than 50 percent of the initial contract term and that there will be no more extensions permitted after that extension. The reasoning for this is to make sure that contracts are bid and not just extended without finding the best price or product for that. This is also LB101 that Senator Stinner will be introducing later. The Auditor would be able to appoint a designee to attend Suggestion Award Board meetings in case he or she cannot attend. The bill would also allow the Auditor to appoint two or more assistant deputies. Our assistant deputies must be CPAs and are all assigned different parts of government. They are our audit managers and are accountable for various groups of auditors. They ensure that the audits issued by the office follow government auditing standards. Additionally, LB27 would assess a 14 percent per annum interest rate on delinquent payments for the Auditor's Office. It would also make participating public agencies of interlocals and JPAs jointly and separately held liable for any fees and interest owed to the Auditor if such entity

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

Government, Military and Veterans Affairs Committee
January 19, 2017

would be unable to pay. Last year, the Auditor was unable to collect on an audit of an interlocal health district that was set up by five counties. The health district went insolvent during the audit, thereby there was no money to pay our fees. Four of the counties paid, the largest would not. I've got about one more paragraph, Senator. [LB27]

SENATOR BREWER: Read fast. [LB27]

RUSS KARPISEK: Thank you. Our office took voluntary furlough days to make up for the shortfall in our budget. No government office should do that because another government office won't pay. We have gone another route and we have received the money. The county did file suit against us and lost. Why spend the time and money on that? Finally, the Auditor would be able to share in his or her discretion working papers other than personal information and telephone records with the Legislative Council, as Senator Murante said. Many times issues come up during an audit that should be and could be taken care of right away. At present, the Auditor cannot share information with these agencies until the audit is final. If a problem can be fixed with a bill or an amendment, it seems prudent to do so. As Senator Murante said, there is approved amendment that would...proposed amendment that would make clear that any information that is sealed or confidential court record contained in working papers would be prohibited from being revealed. We've worked with the Supreme Court on that issue and I appreciate their help and input on that matter. Thank you, Senator. I'd be willing to take any questions. [LB27]

SENATOR BREWER: All right, thank you, sir. Yes, Senator Blood. [LB27]

SENATOR BLOOD: Thank you, Senator Brewer. I have, actually, several questions. First, I want to make sure that I clearly understand what you're talking about. [LB27]

RUSS KARPISEK: Okay. [LB27]

SENATOR BLOOD: So you're talking about the interlocal agreements and the yearly reports that are filed from like municipalities such as...when I come from Bellevue. [LB27]

RUSS KARPISEK: Yes. [LB27]

SENATOR BLOOD: Okay. So can you tell me how often people request that information from you and by whom. [LB27]

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

Government, Military and Veterans Affairs Committee
January 19, 2017

RUSS KARPISEK: It's requested quite often and it can be from the public; it can be from someone who has been in an accident. The ones that I know of personally, because I carried some of the legislation, was...I think it was an ambulance ran into someone, but the name on the ambulance wasn't like "city of Bellevue", it was, I don't know, call it whatever you want. [LB27]

SENATOR BLOOD: Like a private company. [LB27]

RUSS KARPISEK: Yes. But it was actually associated with the hospital that was a city-owned hospital. So there's different times that you can go back against those people if you're harmed. And municipalities are one year, so these people couldn't find who it was that had harmed them and the case was dismissed because of lack of time. [LB27]

SENATOR BLOOD: So can you give me a range, a number, one to five times a year, a hundred times a year? [LB27]

RUSS KARPISEK: I cannot. Mary Avery from the office is here, that she may be able to give you that number. I cannot, I'm sorry. [LB27]

SENATOR BLOOD: And so by whom...who is the usual suspect that would ask for this type of report? [LB27]

RUSS KARPISEK: Again, I think it just ranges across the board if it's... [LB27]

SENATOR BLOOD: So there's no norm or consistent... [LB27]

RUSS KARPISEK: Not that I know. Again, maybe Ms. Avery would be able to pin that down. I'm sorry, I don't deal with those. [LB27]

SENATOR BLOOD: So one of the questions I have is in reference to the change that refers to--"no contract for purchase or lease shall be amended to extend the duration of the contract for a period of more than 50 percent of the initial contract term." What is the purpose of that? [LB27]

RUSS KARPISEK: Um-hum. When a contract is bid, let's just say that you and I are bidding a contract, I'm the state, you're the private person, and we agree on a five-year contract. [LB27]

SENATOR BLOOD: Right. [LB27]

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

Government, Military and Veterans Affairs Committee
January 19, 2017

RUSS KARPISEK: We get to the end of the five years and not that it has happened recently, but in the past, they would maybe just renew that contract for another five years and maybe another five years without going out to bid. The thinking here is that shouldn't bids be taken more often to make sure that you're getting the best price and the best product. [LB27]

SENATOR BLOOD: But shouldn't that be up to the local legislative body? Isn't this also plans to your local legislative body this bill? [LB27]

RUSS KARPISEK: This is state agencies shall not... [LB27]

SENATOR BLOOD: So it's only state agencies? [LB27]

RUSS KARPISEK: Yes. [LB27]

SENATOR BLOOD: So it doesn't apply in any fashion to a municipality? [LB27]

RUSS KARPISEK: Not that I'm aware, Senator. [LB27]

SENATOR BLOOD: Okay. I might have one more questions for you, hang on. [LB27]

RUSS KARPISEK: That's fine. You can always find me later, too. [LB27]

SENATOR BLOOD: I want questions answered before we Exec this. Also, so why does the audit department want to take on this extra responsibility as opposed to leaving it as it is where a lot of the responsibility falls on the county and municipal levels? [LB27]

RUSS KARPISEK: Because there's not a lot of check and balance. Again, like I said, we don't have many teeth in what we can do. When we do an audit and, you know, we find things that come up. I'm probably going to pick on Corrections, we found a lot of things that were not right there. We give them recommendations and comments how to correct it. Well, there's nothing to say that they have to do that. So we come back, and that's in another bill, but we come back and look again and it's the same thing again. So our office is there to try to point out things that could be done in a better way to try to protect the state and the funds. And I guess that the Auditor feels that's our function. [LB27]

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

Government, Military and Veterans Affairs Committee
January 19, 2017

SENATOR BLOOD: And my last question is aren't these same reports available at the local entity? I know that in the municipality of Bellevue that we use those whenever we did the budget. [LB27]

RUSS KARPISEK: You mean like the interlocals? [LB27]

SENATOR BLOOD: Um-hum. And couldn't they get that information from their local (inaudible). [LB27]

RUSS KARPISEK: Yes. If they know where to go. And it's already in statute that they have to turn it into the state. And so if you don't know where to look for "ABC Contracting", it may be out of Scottsbluff doing business in Omaha and you just don't know. Again, that's already in contract. We just aren't getting those things turned in according to statute, but there's nothing that really can be done about it. [LB27]

SENATOR BLOOD: Okay. Thank you. [LB27]

RUSS KARPISEK: Thank you. [LB27]

SENATOR BREWER: Go ahead, Senator. [LB27]

SENATOR HILGERS: What was the...I didn't write it down quickly enough. What was the stat of how many had actually turned in these reports yearly? [LB27]

RUSS KARPISEK: I don't know...oh, I'm sorry, how many counties? About 59. [LB27]

SENATOR HILGERS: Fifty-nine. Is there...are you hearing a common reason why the counties that aren't providing this information aren't doing so? Is it a cost? Is it a lack of awareness of their statutory responsibility? [LB27]

RUSS KARPISEK: All I can do is guess and say that's it's just lack of knowing that they're supposed to do it or just don't get around to doing it. Some of those counties are small and don't have a lot of people in them. But, again, when we don't know and then our auditors go out and we audit the county, we don't know that that's a part of it. There could be a whole lot going on there that we don't even know about. [LB27]

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

Government, Military and Veterans Affairs Committee
January 19, 2017

SENATOR HILGERS: The larger counties, Douglas, Lancaster, are they turning in their forms? [LB27]

RUSS KARPISEK: They are doing better. But, again, we don't know what we don't know. We only know what they turn in to us. There may be more that we don't know about. [LB27]

SENATOR HILGERS: And that was one of my questions on the penalties. I mean, for some larger counties, the penalties might not be enough to spur action, if that's an issue. Would you agree with that or... [LB27]

RUSS KARPISEK: Yes. I would have to say the money to us is not the issue, because we would keep like up to \$100 of it and the rest would go, per constitution, where it needs to go to schools fund. We're just trying to figure out some way to get people to do what statutes says that they should do. [LB27]

SENATOR HILGERS: All right. [LB27]

SENATOR BREWER: Any additional questions? Senator Craighead. [LB27]

RUSS KARPISEK: Senator Craighead. [LB27]

SENATOR CRAIGHEAD: Hello. [LB27]

RUSS KARPISEK: Hello. [LB27]

SENATOR CRAIGHEAD: Just confirming that the qualifications of the two deputies are CPAs. [LB27]

RUSS KARPISEK: Absolutely. And we hope to have more than just two, but, yes, they absolutely do have to be CPAs and we're not talking about just regular deputies, these are assistant deputies. [LB27]

SENATOR CRAIGHEAD: Thank you. [LB27]

RUSS KARPISEK: You are welcome. Thank you for pointing that out. [LB27]

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

Government, Military and Veterans Affairs Committee
January 19, 2017

SENATOR BREWER: Go ahead. [LB27]

SENATOR BRIESE: Thank you, Senator Brewer. And thank you for being here today. You have restrictions on the ability of these entities to renew contracts, they can only renew contracts for 50 percent of the time or less, but yet, bottom line there indicates that if they have a renewal option in there, they're not restricted, really, in any way from renewing anything. [LB27]

RUSS KARPISEK: Right. If it's already in there, which...there's a representative here from DAS, I don't know...I don't want to throw him under the bus again this year if he's going to testify, but... [LB27]

BO BOTELHO: Yes. [LB27]

RUSS KARPISEK: Okay. All right, I did that to him last year and I still apologize. But they're doing things differently. But also what we found in some of our bills, people will say--well, this is okay while you're there, while you're there, Auditor Janssen, we know what you mean. But that doesn't mean when you're gone someone else won't do it differently. So this part we have talked with DAS about. [LB27]

SENATOR BRIESE: It seems like folks could circumvent the 50 percent limitation by simply having a renewal option in the contract. [LB27]

RUSS KARPISEK: My guess is that they wouldn't let them put that in the new contracts, but I could be wrong. [LB27]

SENATOR BRIESE: Okay. Thank you. [LB27]

RUSS KARPISEK: Thank you. [LB27]

SENATOR BREWER: All right. One more time around, any other questions? Senator Blood. [LB27]

SENATOR BLOOD: Have you had any response from city or county clerks in reference to this? [LB27]

RUSS KARPISEK: I think that there will be someone here, maybe, but no. In fact, Senator, this bill got to the finish line last year and was vetoed because of a per diem part that was put into it.

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

Government, Military and Veterans Affairs Committee
January 19, 2017

So it's been through everything; not to say that there's still not questions, but we didn't really hear from them at that time either. I just got voted onto a county board and I think that I want my people in the county to be...go per statute. Again, if there's not ever any teeth to make people do things, they don't tend to do it. [LB27]

SENATOR BLOOD: Okay. Just to clarify, to make sure that I'm understanding, so you'd like them to go per statute, but you specifically said, and I just want to make sure that this is indeed true that the reference, in reference to the contract, the five-year term and the 50 percent, that's only state contracts... [LB27]

RUSS KARPISEK: Correct. [LB27]

SENATOR BLOOD: ...that's not interlocal. [LB27]

RUSS KARPISEK: No. [LB27]

SENATOR BLOOD: Okay. Thank you. [LB27]

SENATOR BREWER: All right, any more questions? Sir, thank you for your time. [LB27]

RUSS KARPISEK: Thank you, Senator. [LB27]

SENATOR BREWER: All right. Any other proponents? Yes, welcome. [LB27]

FRANK DALEY: Thank you, Senator. Vice Chairman Brewer and members of the Government, Military and Veterans Affairs Committee, my name is Frank Daley, D-a-l-e-y, I'm the executive director of the Nebraska Accountability and Disclosure Commission. I'm here to express the commission's support for LB27. Specifically, the commission supports Section 6 of LB27. On a regular basis, the Auditor of Public Accounts uncovers matters during its audits which are referred to the Accountability and Disclosure Commission for consideration and possible action. And in the past, we have requested copies of the auditors' work papers and any other documentation that's gathered in the process of its audit. Unfortunately, we've been turned down for that. The current and past auditors have seemed agreeable to providing us with those documents, but have believed that current state law prohibits them from providing them. So the net result is that the commission ends up duplicating the work of the State Auditor to get to the same place. Under Section 6 of LB27, the Auditor would be authorized at his discretion to provide those records if he wanted to upon request. And I think this would make for more

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

Government, Military and Veterans Affairs Committee
January 19, 2017

efficient government and a more efficient process. So I thank the Auditor's Office for its effort to get this straightened out and thank you for the opportunity to testify. [LB27]

SENATOR BREWER: All right, questions? Go ahead, Senator Hilgers. [LB27]

SENATOR HILGERS: Mr. Daley, good to see you again. Is there any provision in here that would require the Accountability and Disclosure Commission or any other entity that received that information to itself keep that information confidential? [LB27]

FRANK DALEY: If we are using it in the context of an investigation, it is under the Accountability and Disclosure Act confidential. [LB27]

SENATOR HILGERS: Would there be any...any reason outside of the context of an investigation for which you would ask for that information? [LB27]

FRANK DALEY: Sometimes we would take an initial look to determine if we even want to begin an investigation. [LB27]

SENATOR HILGERS: And that sort of precheck, preliminary investigation would be covered under the confidentiality provisions of the investigation or not? [LB27]

FRANK DALEY: Strictly speaking, I think the answer is no. But, I mean, that's potentially an issue. One of the things we've done in dealing with records which we've had in our possession and concluded that we weren't going to begin an investigation and so, technically, the records could be considered public records, is that we return them. It happens a lot with the State Patrol that the State Patrol gives us records. We find that there may be something actionable but not by us. But because we have not commenced an investigation, we simply return the reports to the State Patrol so that they're in the hands of the law enforcement agency rather than us. And we could certainly do the same with work papers of the auditor. [LB27]

SENATOR HILGERS: Okay. Thank you. [LB27]

SENATOR BREWER: All right, additional questions? Sir, thank you. [LB27]

FRANK DALEY: Thank you, all. [LB27]

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

Government, Military and Veterans Affairs Committee
January 19, 2017

SENATOR BREWER: All right, any additional proponents? All right, then we go to opponents. Oh, we're going to expedite this. Neutral? Welcome. [LB27]

BO BOTELHO: (Exhibit 2) Thank you. Good afternoon, Senator Brewer and members of the committee. My name is Bo Botelho, B-o B-o-t-e-l-h-o, chief operations officer and materiel administrator for the Department of Administrative Services. LB27 is a bill relating to several topics. I am here today to provide neutral testimony regarding the duration of certain agency contracts, state agency contracts. LB27 proposes changes to state statutes which relates to service contracts to state agencies as defined by Section 73-502, as well as contracts of purchase or lease of personal property, or what we would generally call commodity contracts, as described by Section 81-1118. The bill changes the duration requirement for such contracts to being amended to allow for a one-time extension of a contract which is limited to a period of 50 percent of the initial contract term. The bill specifies that no further extensions shall be permitted. There were two different terms used when discussing the duration of contracts. One is the "renewal" term and one is the "extension." Renewals are optional terms of duration that are built into the contract and they were submitted and subjected to the bid process originally. They're part of the initial contract. They're, in essence, optional terms that can supplement the initial term that was put out to bid, as opposed to an extension which is amendment. You've run out of time in your contract, you've run out your initial term, you may have gone through your renewal terms, and what you're doing is you're amending the contract beyond what was submitted to an RFP or for a bid process and you're pushing the end date up to sometime in the future. So an extension is outside of the bid process. Renewals are part of the bid process. They were subjected to the bid; they were subjected to the market place; they were subjected to evaluation. That's the difference between renewals and the extensions. So this bill would not allow agencies to add renewals to a contract. That would, in essence, be an extension, not a renewal. In addition, the bill as drafted should not impact the state's ability to negotiate the initial term of the contract and the optional renewal periods I just explained. In addition to the state bid contracts, the state of Nebraska cooperates in contracts that were competitively bid by cooperative purchase organizations on behalf of all 50 states, or a state, or group of states. These contracts have renewal periods in them as well. Sometimes they call the renewal periods extension periods as opposed to what we call renewals. However, it is in fact a renewal period, they're just using the term "extension." This bill would not impact and should not impact the state to participate in those contracts. And the way we do that is our statute allows us to enter into a participating addendum. This contract was bid by another state or other states. We enter into an addendum to that master contract and we participate in that state's contract. The bill, LB27, as referred to extension really only refers to the process of amending the existing contract and making it longer. With that I'll take any questions you all may have. [LB27]

SENATOR BREWER: Just for clarification, sir, so you're testifying in a neutral position and this is just clarifying the details of the bill. [LB27]

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

Government, Military and Veterans Affairs Committee
January 19, 2017

BO BOTELHO: Correct. [LB27]

SENATOR BREWER: Okay. Questions? One question. [LB27]

SENATOR HILGERS: How large is the subset of contracts to which this bill would apply? Is it just a handful or is it a 10, 20? [LB27]

BO BOTELHO: No, the bill as written would apply to any contract. [LB27]

SENATOR HILGERS: Well, I mean, well, how often does it...I guess, how often would this...would...how many, roughly, I mean, does the circumstances in which, I mean, do we often amend these contracts in a way that would trigger the bill or is it currently where they would go out for bid again. I mean... [LB27]

BO BOTELHO: An extension is useful in a couple of periods. And the answer to your question regarding DAS, as materiel administrator, any contract that hits the bid thresholds come through me so I have control of those contracts. And so in my shop, the answer is this is rarely used. But when it is used is when you have a large contract where a continuity of service is critical, for instance like a Medicaid system, you can't...if you don't have an incoming vendor ready to go, boots on the ground to take up that service, that contract simply just can't end and we no longer provide services to constituents, the citizens of Nebraska. So what an extension does is allow me to fill that gap. And that's really the only purpose of an extension is a gap filler for a contract where you have to maintain a continuity of service. And because the bidding process took too long or there were protests or perhaps litigations, the incoming vendor isn't ready at the date that we anticipated and so we have to fill that. So an extension is a very simple way to cover a short period of time so you don't lose service. And that's really the only time that comes up. And it doesn't come up very often. You try to get contracts bid out anticipating the procurement there's always issues that arise with incoming vendors or you have an outgoing vendor that may not want to play nice with the incoming vendor and so those issues have to be resolved. So this just gives us some flexibility to prevent a stop of service. [LB27]

SENATOR BREWER: All right, any additional questions? Thank you, sir. [LB27]

BO BOTELHO: You're welcome. [LB27]

SENATOR BREWER: All right, any other neutral positions? Thank you for coming. [LB27]

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

Government, Military and Veterans Affairs Committee
January 19, 2017

CHRISTY ABRAHAM: Thank you, Senator Brewer, members of the Government Committee. My name is Christy Abraham, C-h-r-i-s-t-y, Abraham is A-b-r-a-h-a-m, and I'm here representing the League of Nebraska Municipalities. And I want to just to discuss briefly with you the section that Senator Blood mentioned, it's on page 2 of your bill, about the information that political subdivisions have to submit to the Auditor. We just want this committee to take into consideration that in some of our very small communities and villages, they don't have a full-time person on staff, they may have a volunteer clerk who comes in once or twice a month to do things. They may have a maintenance man that comes in more often than that, but it's not like your larger communities where there are people, lots of people on staff for lots of periods of time. And so I'm happy to work with the committee and the Auditor's Office on any sort of language that might sort of provide a waiver for smaller communities in case they don't get that in time or a stratification of fees. As you mentioned, a \$2,000 fine to the city of Omaha is not a great fine, but a \$2,000 fine for the city of Genoa would be quite significant. And so we just wanted to bring these issues to your attention and I'm happy to answer any questions you might have. [LB27]

SENATOR BREWER: Thank you. Questions? Senator Blood. [LB27]

SENATOR BLOOD: Is it your experience, and I may be wrong on this, isn't there an extra 5 cents in the budget levy when a municipality turns its report in as part of the program? Does that sound familiar? [LB27]

CHRISTY ABRAHAM: I'm sorry, Senator Blood, it doesn't sound familiar. But that doesn't mean it doesn't exist. Did I mention I'm new? [LB27]

SENATOR BLOOD: The (inaudible) behind you is going... [LB27]

CHRISTY ABRAHAM: Yes, yes, but I'm happy to look into that and get back to you. [LB27]

SENATOR BLOOD: So there is an incentive to do it is what I'm...I guess I'm trying to find out. [LB27]

CHRISTY ABRAHAM: And I think, certainly, as you know from serving on the city council, our cities and villages do everything they can to comply with the law. [LB27]

SENATOR BLOOD: Absolutely. [LB27]

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

Government, Military and Veterans Affairs Committee
January 19, 2017

CHRISTY ABRAHAM: If there's a mandate in state law, cities are really trying to comply with that. Again, sometimes in these smaller communities, if you have someone who is only coming in maybe once every 30 days, sometimes things just don't happen as fast as they should. So that's the concerns we're raising today. [LB27]

SENATOR BLOOD: So the concern I have reading the bill and some of it has been answered, I still want to know how many times these reports are requested. But the concern that I have seems like it's in some ways taking power away from the local entity. What does the League of Municipality feel? Do they feel that's an issue? I know you're coming in as neutral, I'm really looking to your expertise to see if that's also the League's feeling. [LB27]

CHRISTY ABRAHAM: Well, and again, you'll hear us saying this over and over, we love local control at the League. [LB27]

SENATOR BLOOD: Absolutely. [LB27]

CHRISTY ABRAHAM: So we're always going to advocate for that. And again, I don't think municipalities have a problem with filing this form, as Senator Karpisek...I'm sorry, Mr. Karpisek mentioned, it's a useful thing to have. It's important to know what interlocals cities are entering into. And the trade names that they're operating under are very important, as he mentioned in lawsuits and other issues. So again, we're happy to file those. But when the teeth is put in where, you know, a small municipality can be fined \$2,000, that's where we get concerned. [LB27]

SENATOR BLOOD: Thank you. [LB27]

CHRISTY ABRAHAM: Thank you. [LB27]

SENATOR BREWER: Other questions? Thank you. [LB27]

CHRISTY ABRAHAM: Thank you so much. [LB27]

SENATOR BREWER: Welcome. [LB27]

JERRY STILMOCK: Good afternoon, Senators. My name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k. I'm lobbyist for the Nebraska State Volunteer Firefighters Association and the Nebraska Fire Chiefs Association. Similar to the previous testifier, on the item that caught my

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

Government, Military and Veterans Affairs Committee
January 19, 2017

attention was even though the groups that I represent are the people, the volunteers, the men and ladies that serve throughout the state, nobody is out there, really, that has an association for fire protection districts. So we kind of de facto we do that. And so the item that I think of is for the rural senators they know that fire districts join their band of brothers and sisters by mutual aid agreements. And I don't know if everybody thinks of everybody in the fire protection district boards if they think that I have a mutual aid agreement does that mean I have an interlocal agreement? And does that mean then that I need to reply to the Auditor's Office each and every year of the number of interlocal agreements that we have. Another popular tool by some of the counties and the fire districts are Mutual Finance Assistance Act. They know it as MFO; they know it as a state assistance to fire districts. They may not think of it as a interlocal agreement. So what we do is we try to educate them and say, yes, those are interlocal agreements; yes, you need to supply those to the Auditor's Office. But the item I would bring to you for consideration is similar to the previous testifier is it's a \$20 fee per day, maximum of \$2,000 annually, would you consider putting in a waiver provision for good cause shown? We could all come up with a thousand examples. But the treasurer...or the secretary that should have gotten the notice is no longer the secretary, that person resigned, the notice went to the secretary. There's no provision for a waiver if good cause could be shown by that political subdivision. So in a neutral position, because we haven't taken a position formally on the bill yet, I just wanted to throw those items out in terms of is impacting not just the biggies, but all of the smaller political subdivisions of which fire protection districts are. And I'd ask you to consider my comments as you deliberate the bill. Thank you. And I apologize, Senator Murante, I'm not coming in opposing it, I'm suggestion something, perhaps, that you do, but I didn't have a chance to visit with him ahead of time, so, sir, I apologize for that, even though I'm not facing you right now. [LB27]

SENATOR BREWER: That's all right, he's looking at your back. (Laughter) Okay, questions? Any questions? None. Thank you, sir. [LB27]

JERRY STILMOCK: Thank you, Senators. [LB27]

SENATOR BREWER: All right. Any other neutral? Would you care to not give us your closing? He will waive the closing. This will conclude LB27. Oh, do you have any letters? Do we have any letters? None. All right, then that will complete LB27 and I will hand the reins back to you, sir. As we say in the Army, you have the Conn. [LB27]

SENATOR MURANTE: Very well done, Mr. Vice Chairman, for your first time at the helm. All right, Senator Stinner, welcome back to your Committee on Government, Military and Veteran Affairs. [LB101]

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

Government, Military and Veterans Affairs Committee
January 19, 2017

SENATOR STINNER: Good afternoon, Senator Murante and members of the Government, Military and Veterans Affairs Committee. For the record my name is John, J-o-h-n, Stinner, S-t-i-n-n-e-r. LB101 represents an agreement that has been reached by the State Auditor, various state agencies, and the State Purchasing bureau under the Department of Administrative Services. This bill would provide limitations on the number of times and the length of time that a contract with state agencies and the State Purchasing bureau can be amended to extend the original terms of the contract. Specifically, LB101 prohibits state agencies and State Purchasing bureau from extending any contracts for a period more than 50 percent of the initial contract term and only one such extension is allowed. LB101 does not interfere with the options of renewal if the options are contained in the initial contract. This was a bill that I presented last year. It was put into an Omnibus bill. The Omnibus bill was passed and then vetoed and we decided not to vote on the veto. So I'm not sure if this is going to be pushed into an Omnibus bill again. But it's something that has been an issue certainly with the State Auditor and contracts and making sure that we don't continue to renew contracts, but actually go after competitive bids. [LB101]

SENATOR MURANTE: Thank you, Senator Stinner. And I do want to give just a very brief legislative history because it's been referenced twice. What Senator Stinner said is absolutely correct. Last year, this committee heard a number of bills introduced on behalf of the Auditor of Public Accounts. We bundled those bills into an Omnibus bill; we prioritized the bill. Came out of the committee unanimously, passed the Legislature on three rounds of debate unanimously. It was vetoed by the Governor because of one of the provisions in that bill, although the overwhelming majority of the bill he took no exception with and that had to do with how per diems were paid, whether it would be done, basically, as the military does it on the...the amendment would have used the federal model rather than an actual cost basis. So that is why he vetoed it. But that provision is not in any of the bills that we're talking about today. So that is the legislative history of how we are today. And now we are trying to go back and pass all of the things that the Legislature passed unanimously but for that provision that was vetoed. That's the background. [LB101]

SENATOR STINNER: Thank you. [LB101]

SENATOR MURANTE: Are there any questions for Senator Stinner? Seeing none, thank you very much. [LB101]

SENATOR STINNER: Thank you. [LB101]

SENATOR MURANTE: Senator Karpisek. I'm still going to call you "Senator", Senator Karpisek if that's all right. [LB101]

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

Government, Military and Veterans Affairs Committee
January 19, 2017

RUSS KARPISEK: Thank you, Senator Murante. We can say each other's names, we're the couple of the few that... [LB101]

SENATOR MURANTE: And pronounce them correctly. [LB101]

RUSS KARPISEK: Yes. Senator Murante and members of the committee, thank you. Very quickly, as I said, that was the same exact part that we talked about in LB27 and, of course, we do support it. Any questions I would take them. [LB101]

SENATOR MURANTE: Thank you, Senator Karpisek. [LB101]

RUSS KARPISEK: Thank you. [LB101]

SENATOR MURANTE: Are there any questions? So...wait, Senator Blood has a question. [LB101]

SENATOR BLOOD: I hate to beat a dead horse, but I have to have things clarified. So LB101 specifically states state contracts, but LB27 does not. [LB101]

RUSS KARPISEK: It does, Senator. [LB101]

SENATOR BLOOD: It does? [LB101]

RUSS KARPISEK: Yes. I'm sorry, I don't have a copy with me. Page 3, Section 2, line 7, "state agencies shall not enter into contracts for services with an unspecified, unlimited duration." [LB101]

SENATOR BLOOD: So what about page 5, (f), "no contract for purchase or lease shall be amended to extend duration..." or am I reading this wrong? That it's not complementary to what you just presented. [LB101]

RUSS KARPISEK: That's a great question, Senator, and... [LB101]

BO BOTELHO: I can answer that. [LB101]

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

Government, Military and Veterans Affairs Committee
January 19, 2017

SENATOR BLOOD: I'm not trying to be difficult. I'm trying to maintain that it clearly says "state" and I know that we're not talking about this bill, but you're comparing it so I need to know in my head at this point. [LB101]

RUSS KARPISEK: Right. And that is the absolute intention. And if there's anything that we need to change, we would be more than happy to do so. [LB101]

SENATOR BLOOD: Thank you, sir. [LB101]

RUSS KARPISEK: Thank you. [LB101]

SENATOR MURANTE: Thank you. Any final questions? Seeing none, thank you very much. Additional proponent testimony to LB101? Seeing none, is there any opposition testimony? Neutral testimony? [LB101]

BO BOTELHO: (Exhibit 1) Senator Murante, members of the committee, again, my name is Bo Botelho, B-o B-o-t-e-l-h-o, I'm chief operation officer and materiel administrator for the Department of Administrative Services, state of Nebraska. Our position on this bill is the same as it was in LB27. The bills are identical, we take no different position. To answer your questions, Senator, Chapter 81 is a materiel administrator and the division of...Department of Administrative Services, Division of Materiel section in the statute. It only refers to my division. I have no jurisdiction over a political subdivision. Although they are allowed to participate in my contracts, that section would not bind the political subdivision because it doesn't speak to anything except for my authority. So I don't believe it would reach out to the political subdivision in any way, shape, or form. Other than they're indirectly impact because they do purchase off my contracts. [LB101]

SENATOR BLOOD: Okay. [LB101]

SENATOR MURANTE: All right. Any additional questions? Seeing none, thank you very much for your testimony. Any additional neutral testimony? Seeing none, Senator Stinner waives closing. We'll proceed to the next item on the agenda, LB151. Welcome back. [LB101]

SENATOR STINNER: Once again, good afternoon. Members of the Government, Military and Veterans Affairs, for the record my name is John Stinner, J-o-h-n S-t-i-n-n-e-r. LB151 is a bill that would provide additional oversight to the investigative process as conducted by the State Auditor's Office. Under current statute, any entity that is audited is required to cooperate with the Auditor as the process is conducted. However, it is not uncommon for an agency to disregard

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

Government, Military and Veterans Affairs Committee
January 19, 2017

these reports after completion. It is my intent to ensure that there is a follow-up throughout this process to demonstrate what, if any, corrective actions are being taken to alleviate the concerns raised throughout the audit. This bill was originally brought to me by the Auditor's Office who suggested that the Legislature initiate a more substantive review process by maintaining contact with state agencies that have been subject to an audit. Post-audit reviews are an important part of the quality assurance process and LB151 improves the process throughout its provisions. This bill would require any entity that is audited to provide a detailed, written description of any and all corrective action taken or to be taken as a result of the audit on or before six months after the auditor's final report. It gives the Auditor's Office the authority to investigate the corrective actions stated and requires the Auditor to report these findings to the Legislature, the Governor, and any respective standing committees. The auditor is also responsible for ensuring that the report is delivered to the Appropriations Committee for entry into the record during the budgeting process. This added incentive ensures responsible stewardship of the taxpayer dollars. It has been brought to my attention, however, that there are various state entities that have a problem with one of the clauses. That clause is the Auditor of Public Accounts may investigate and value the corrective action at the expense of that entity. There have been some concerns that this provision within in the bill may cause unnecessary burden on those entities being audited, especially during a time when many of them have made substantial cuts. I've been aware of these concerns...I've been made aware of these concerns and will like to air them so that you're all aware that there may be an adjustment in this bill. I've yet to be able to sit down and really weigh what is being said against, maybe, what needs to be done. But just to give you a little bit of detail. I was approached by the State Auditor and there continues to be many agencies that respond to their management letter items, if you will, their exceptions, and sometimes the corrective action isn't taken. So the next time they go in, bang, there's another same items on there. And some of them are material and I get the fact that there's many times in an audit report, immaterial items, I think I can decipher like you have three people over here and you don't have internal controls. In order to comply with that, you'd have to hire five people. That could easily be explained away. But there are other exceptions, many times, in an audit report so that really need to have prompt corrective action. And I think if you look at the Corrections audit, if you look at some of the other audits that have come up, there needs to be prompt corrective actions on some of this. So, I get together with Speaker Hadley, I talked about, you know, who's the best...what's the best body to do this. Is it the Executive Committee? Is it Appropriations? They decided Appropriations is the body to actually have that response because, first of all, they have to come in with their budget concerns. Second of all, we have a budget that we have to pass. And so we get to scrutinize what they're talking about. Sometimes we'll have to add something. The thing that comes to mind is the way the pharmacy was being conducted in the Corrections Department. So that took some action and that took some dollars. So that would be why Appropriations is involved in this. [LB151]

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

Government, Military and Veterans Affairs Committee
January 19, 2017

SENATOR MURANTE: All right, thank you very much for your testimony. Are there any questions? Seeing none, thank you very much for coming down. You going to stick around for closing? [LB151]

SENATOR STINNER: I will waive closing. [LB151]

SENATOR MURANTE: Okay, thank you. Enjoy the Appropriations Committee. Find \$900 million. All right, we will proceed to proponent testimony on LB151. [LB151]

RUSS KARPISEK: Thank you, Senator Murante and members of the Government Committee. Once again, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, and I am the legislative liaison for the public...Auditor of Public Accounts, Charlie Janssen. I'd like to thank Senator Stinner for bringing LB151. The Auditor is in favor of this bill to try to get entities that are audited or examined to take corrective action. I would urge you to go to the Auditor's Web site and look at some of our audits to see where the comments and recommendations are made. I was going to run one off for each one of you today, but, again, we're talking about budgets so I decided to save some paper. Almost all the audits will have comments and recommendations in them for things that we have found. As Senator Stinner said, they're not the little things that we might say, well, that's really "ticky-tac." These are the big issues that the auditor finds in agencies. Many audit reports are done that have many repeat findings over and over and over again. The Auditor's Office does not have any authority to enforce entities to use corrective action and there have been instances where the entity has told the office that there is nothing that we can do to them so they will not be doing anything we recommend. Unfortunately, they are right. Our biggest way that we can do anything is to have things come out in the paper and that is not our intent. We don't need everything in the paper to make things look bad. Auditor Janssen does not hold press conferences on any audits. The bill would require these entities to submit to the Auditor of Public Accounts within six months after the issuance of a letter or report a detailed description of any corrective action taken or to be taken in response to the letter or report. The Auditor's Office may then investigate and evaluate the corrective action. As Senator Stinner said, we are willing to take the words out "at the expense of the entity." We were thinking of "entity" as the pay us to do an audit, but we have decided that we would be able to absorb the cost of the investigations if we do go back to investigate. Hopefully, that will resolve some concern among these entities. I also know there is some concern about the word "evaluate." The thought is that the office would investigate to make sure the corrective action really was taken and how well it is working. If that word is an issue, we're willing to work with the people who are concerned. We did not want to put "audit" back in there because we did not want to go back and audit six months after we were just in an agency. Again, we're also under a budget. LB151 would also strike (9) on page 6, lines 23 through 26. We feel that this is duplicative language and can be removed. If you look in (3)(a) on page 2, lines 15 through 26, it talks about examinations being done in accordance with Generally Accepted Government Auditing Standards published by the Comptroller General of

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

Government, Military and Veterans Affairs Committee
January 19, 2017

the United States. The stricken language also includes that audits and examinations be done in a timely manner. What is a timely manner? Generally Accepted Government Auditing Standards already covers that. These reports would then be electronically submitted to the Governor, the appropriate standing committee of the Legislature, and the Appropriations Committee of the Legislature. This will provide the Legislature to see the progress, or lack thereof, in response to these comments and recommendations from the auditor. Maybe another set of eyes on these issues will entice these entities to take corrective action more seriously. I'd be glad to try to answer any questions. [LB151]

SENATOR MURANTE: Thank you, Senator. Are there any questions? Seeing none, thanks again, appreciate it. [LB151]

RUSS KARPISEK: Thank you. [LB151]

SENATOR MURANTE: Additional proponent testimony to LB151? Maybe? John? Perhaps not. Is there opposition testimony to LB151? Any neutral testimony on LB151? Seeing none, Senator Stinner has waived closing and we will proceed to the next...oh, my apologies, my apologies. Welcome. [LB151]

CAROLYN MURPHY: Thank you. Senator Murante and members of the committee, good afternoon. My name is Carolyn Murphy, and I'm the vice chancellor for finance and administration for the Nebraska State College System. I'm testifying today on behalf of the State College System and testifying in the neutral capacity on LB151. This has been a particularly hectic start to the legislative session for us. We had our board in town this week for a board meeting and, of course, our focus on the deficit bill so we've not had a chance to follow up with Senator Stinner, Senator Murante, or the APA regarding this bill which is why we're here in the neutral. However, we would like to have the opportunity to do that and understand, maybe, more about the background and reasons for the proposed changes. Some of the concerns that we have in the proposed language...and first of all, just as was just noted in the bill, deletes language that requires the APA to conduct audits and examinations in accordance with the standards for the audits of governmental organizations, programs, activities, and functions published by the Comptroller General of the United States. The APA is the auditor for the Nebraska State College Systems' basic financial audit annually which is required to be filed with many external entities including the Federal Audit Clearinghouse, Federal Department of Education, Electronic Municipal Market Access, the official repository for information on our bonds, bond rating agencies, and many other NSCS stakeholders. There's a basic expectation by all of these entities that the audit will be conducted in accordance with the standards proposed to be struck. I do understand that they may be in another place in the bill, but we just want to assure that that doesn't change the basis or the premise for the audit. The bill also deletes the requirement for the

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

Government, Military and Veterans Affairs Committee
January 19, 2017

APA to conduct audits and examinations in a timely manner. Conducting audits in a timely manner, again, is critical for the NSCS when there are federal and state requirements, as well as bond covenants containing audit filing deadlines. We always work closely with the APA to assure that those deadlines are met. Again, just not sure why the language is being removed in the bill. Next, LB151 would give the APA the ability to investigate and evaluate the corrective action at the financial expense of the entity. I appreciate the consideration on the financial piece of that. It seems to be a fundamental shift though from performing and reporting on financial inspection into evaluating management corrective action decisions. Our concern is that such a change could impact auditor independence which is an important concept in accounting and auditing standards and we wonder what's intended by the word "evaluate." While I'm sure it's not the intent of the APA, it could be seen as evaluating the work of the board of trustees who has the constitutional authority to govern the state colleges. Also as noted, our management letter is posted on-line on the APA's Web site each year, as well as our responses. Because the NSCS does have its audit on an annual basis, and its management letter is issued, generally, in January following the end of the fiscal year, the APA is already following up with the state colleges on any management letter comments for the next audit which is within six to eight months of issuance which raises a question as to why a separate investigation or review would be necessary. If we're able to work through these concerns, we would certainly let the committee know that we support the bill. If not, we would certainly like to communicate back about our concerns; and I really thank you for the opportunity to testify today and hope that we have an opportunity to work with the APA, Senator Murante, and Senator Stinner to resolve the concerns. [LB151]

SENATOR MURANTE: All right, thank you very much for your testimony. Are there any questions? Senator Hilgers. [LB151]

SENATOR HILGERS: A quick point of clarification, just so I understand your testimony correctly. On the language that they proposed to strike on page 6, (9) that you referred to, are you just...are you raising issue and saying, hey look, you're taking out something that applies to the standards? Or are you saying that the language that Mr. Karpisek mentioned on page 2, lines 16 through 26 is not sufficient to cover...it's not duplicative. Are you actually telling...are you testifying today that that's not enough or are you just saying be careful here? [LB151]

CAROLYN MURPHY: I think it's more be careful. It may be that that's enough because it is certainly stated there. What we haven't had time to do is look at all the other references back to the statute. As you know, sometimes there are references and you don't know the impact. And it very well may be adequate there. We are not finding another mention in statute of the timeliness. That's...so... [LB151]

SENATOR HILGERS: Okay, no, that answers my question. Thank you. [LB151]

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

Government, Military and Veterans Affairs Committee
January 19, 2017

SENATOR MURANTE: Thank you, Senator Hilgers. Seeing no additional questions, thank you very much for your testimony. [LB151]

CAROLYN MURPHY: Thank you. [LB151]

SENATOR MURANTE: Additional neutral testimony? [LB151]

MICHAEL JUSTUS: Good afternoon, Chairman Murante and members of the committee. My name is Michael Justus, M-i-c-h-a-e-l J-u-s-t-u-s. I'm the director of internal audit for the University of Nebraska and I'm here to offer some comments on LB151 on its path. To begin, I want to thank the bill sponsor, Senator Stinner, for taking the time out of this hectic week to allow the university to share some of our concerns on LB151 as it was introduced. Having worked in the Auditor's Office, I believe I understand what the bill tries to achieve, mainly to encourage government effectiveness and efficiencies by elevating the audit process as it pertains to audit recommendations and the subsequent corrective action plans. My goal in testifying this afternoon is to seek better understanding of LB151, to share some comments about our position, and to ask Senator Stinner and Chairman Murante to hold this legislation in committee until we have an opportunity for further discussion. We did receive a notice this morning that Deputy Karpisek had proposed to change the bill. However, we have not had an opportunity to sit down with him and work through the amendment. So please note my comment reflect the green copy of the bill. The university takes the audit process very seriously. And as a steward of state dollars, we hold ourselves to a very high standard of conduct, ethics, and accountability. We realize, however, that not every agency or government entity is as responsive to audit findings or ensuring the corrective actions have taken place. As we reviewed the bill a number of questions arose. For example, the report on the corrective action plan is a new concept. What will the report look like? How will the Auditor's language read? Will audited entities or agencies have input during the investigation, or is input limited to providing the corrective action plan? How much time is the state Auditor's Office currently committing to investigating the valuation and recommendations. Our audit is an annual audit, so we get that every year. For these reasons, the university believes additional clarity to the proposal would help reduce confusion and eliminate undue cost for audited entities. To conclude, the university prides itself on our strong partnership with the state of Nebraska and its leaders, including the state Auditor's Office. Although we can't support LB151 in its original form, we would welcome an opportunity to continue the discussions with the committee; Auditor Janssen and his staff; and sponsor of the bill, Senator Stinner. Thank you for your time and attention to this matter and your service to the state. We look forward to working with each of you on LB151 and would be happy to answer any questions you may have. [LB151]

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

Government, Military and Veterans Affairs Committee
January 19, 2017

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions?
Senator Briese. [LB151]

SENATOR BRIESE: Maybe just to clarify, you mentioned about three concerns there. What was
the first one again? [LB151]

MICHAEL JUSTUS: The corrective action plan, they're going to give a report on that. That's a
new concept, so we're wondering what that will look like. You're taking it away from the
financial statements now so there's not a financial document to tie it to, it's just a set of corrective
action plans. [LB151]

SENATOR BRIESE: Okay. You're also concerned what type of input the entity being audited
(inaudible). [LB151]

MICHAEL JUSTUS: Right. If we just hand them the corrective action plan and then they're
going to evaluate and investigate? Or do we have some (inaudible) ongoing discussion? [LB151]

SENATOR BRIESE: Okay. Thank you. [LB151]

MICHAEL JUSTUS: Um-hum. [LB151]

SENATOR MURANTE: Seeing no additional questions, thank you very much for your
testimony. [LB151]

MICHAEL JUSTUS: Thank you. [LB151]

SENATOR MURANTE: Is there any additional neutral testimony to this bill? Seeing none, that
will close the hearing. I would recommend that the stakeholders who all expressed an interest in
working together do so in relatively short order. I would like to proceed with this bill, hopefully
within the next week or two. So if you could work something out, that would be helpful. If
there's anything you need from me to help facilitate that, I would be happy to help. So that closes
the hearing on LB151. We'll proceed to the next item on the agenda, LB89. Senator Hughes,
welcome back to your Committee on Government, Military and Veterans Affairs. [LB151]

SENATOR HUGHES: (Exhibit 1) Thank you, Senator Murante, members of the Government,
Military and Veterans Affairs Committee. For the record, my name is Senator Dan Hughes. That
is D-a-n H-u-g-h-e-s and I represent the 44th Legislative District. I'm here today to introduce

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

Government, Military and Veterans Affairs Committee
January 19, 2017

LB89 at the request of Charlie Janssen, Nebraska Auditor of Public Accounts. LB89 would clarify the number of days that a notice of place and time of a proposed budget public hearing must be published. State statute 13-506 currently states that the hearing must be published in a newspaper of general circulation within the governing's body of jurisdiction at least five days prior to the date of the hearing. The Auditor's Office receives many calls asking what five days means. Although that seems to be an easy question, it can be interpreted in different ways. LB89 would make it clear that the notice of the hearing must be published at least four days prior to the date of the hearing. The four days would include the date of the publication, but not the date of the hearing. It would also define that four days are calendar days not business days. The same would hold true for a public body...if a public body would need to conduct a public hearing to revise a previously adopted budget. This is how the Auditor's Office interprets the statute now and this is just intended to be a clarification for public boards. After this bill was introduced, someone asked about including fire districts. I have an amendment that my office gave your committee and I would appreciate it if you would consider making it a committee amendment. The amendment would include state statute 35-507 in the same publication language that was used in this bill. There are people from the Auditor's Office here today that can answer more specific questions if you have them, but I would be happy to try and answer any questions you may have of me. Thank you. [LB89]

SENATOR MURANTE: Thank you, Senator Hughes. Senator Blood. [LB89]

SENATOR BLOOD: So this will be consistent with the existing Open Meetings Act as well so it won't create any kind of confusion? [LB89]

SENATOR HUGHES: I believe so, but that might be better asked to ex-Senator Karpisek as he comes behind me. [LB89]

SENATOR BLOOD: And as a well-qualified senator that has seniority, I speak to your expertise in that since we are amending this bill already, what is your personal interpretation that it shall also be amended to truly address the issues of technology and that so few people now actually read the newspaper, are we behind the times by not amending the rest of the bill to address that? [LB89]

SENATOR HUGHES: We have had that discussion in the past about eliminating the need for publication and going strictly electronic media. In my part of the country in southwest Nebraska, the weekly newspapers are still the preferred dissemination of meeting notices. That is changing over time. But at this time, I would be very hesitant to make that jump in the (inaudible). [LB89]

SENATOR BLOOD: Thank you. [LB89]

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

Government, Military and Veterans Affairs Committee
January 19, 2017

SENATOR HUGHES: Um-hum. [LB89]

SENATOR MURANTE: Thank you, Senator Blood. Any additional questions? So I don't...I just was handed... [LB89]

SENATOR HUGHES: I have copies. You have copies? [LB89]

SENATOR MURANTE: Okay. I do, actually it's under the agenda, that's I couldn't see it. [LB89]

SENATOR HUGHES: Okay. [LB89]

SENATOR MURANTE: Any additional questions for Senator Hughes? Seeing none, thank you very much, Senator Hughes. [LB89]

SENATOR HUGHES: Thank you, Mr. Chairman and committee. [LB89]

SENATOR MURANTE: Proceed to proponent testimony on LB89. [LB89]

JOHN BONAIUTO: Senator Murante... [LB89]

SENATOR MURANTE: Mr. Bonaiuto, welcome back to Government. [LB89]

JOHN BONAIUTO: Thank you. Senator Murante, members of the committee, John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o. If I had an "e" I'd have them all...(laughter) but I can't even buy an "e"...representing the Nebraska Association School Boards and I am here as a proponent of LB89. We appreciate Senator Hughes, a former school board member, introducing this bill. And it does help school boards in following the law. If you have a weekly newspaper, you want to get this published, and depending on how you count the days, you can find yourself short, and I think that's what the Auditor's Office was trying to help us get the law to...in a form where it can be followed. And we want people to show up at these budget hearings and have that notification. So with that, I will be happy to conclude my testimony and answer any questions. [LB89]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, appreciate very much for coming down today, much appreciate it. [LB89]

JOHN BONAIUTO: Appreciate it very much. [LB89]

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

Government, Military and Veterans Affairs Committee
January 19, 2017

SENATOR MURANTE: Senator Karpisek, welcome back. [LB89]

RUSS KARPISEK: Just remember, I probably won't be back the rest of the year. (Laughter)
[LB89]

SENATOR MURANTE: We'll see about that. We have subpoena powers. (Laughter) [LB89]

RUSS KARPISEK: Thank you, Senator Murante and members of the Government Committee. Again for the record, my name is Russ Karpisek, R-u-s-s- K-a-r-p-i-s-e-k, and I am the legislative liaison for the Auditor of Public Accounts, Charlie Janssen. I'd like to thank Senator Hughes and his staff for introducing this bill. It does seem to be a pretty simple bill, but the issue behind it is really not as simple. What does "published at least five days prior to the date of the hearing" mean? With over 2,700 political subdivisions in Nebraska, there are a lot of publications for budget hearings. Many of these subdivisions are in areas of the state that have weekly newspapers. So they kind of have to set the hearing date according to the day of the publication. Also, many of them are small boards that are comprised of people just trying to help with, probably, no legal background or legal counsel present. They've probably been begged to serve on some of these. I feel that this legislation will help everyone understand and follow the statute. So now four days means the day of publication, but not the day of the hearing, and it is calendar days, not working days. Now that's something that even I can understand. And I think that it would help a lot. Senator Blood, I agree, we have been through those issues. Like they always say, newspapers buy ink by the barrel. So when you try to cut them out, they tend to not like that. But, again, even in my area, 40 miles away from Lincoln, that weekly newspaper comes out and everybody complains there's nothing in it, but they still look at it. So with that, I will try to answer any questions for you. [LB89]

SENATOR MURANTE: Senator Blood has a question. [LB89]

SENATOR BLOOD: Could you answer my question with reference to the Open Meetings Act?
[LB89]

RUSS KARPISEK: Yes. [LB89]

SENATOR BLOOD: Is this consistent with that or is the Open Meetings Act going to be amended? [LB89]

RUSS KARPISEK: Yes. It really...this is how we interpret this, our office interprets it every day, because, really, if you think about it, five days prior to the day of the hearing, but a lot of people

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

Government, Military and Veterans Affairs Committee
January 19, 2017

just aren't sure and we get...it's amazing how many calls we get about that. So, yeah, it wouldn't change that at all. [LB89]

SENATOR BLOOD: Thank you. [LB89]

RUSS KARPISEK: Thank you. [LB89]

SENATOR MURANTE: All right, any final questions? Seeing none, thank you very much for your testimony. [LB89]

RUSS KARPISEK: Thank you. [LB89]

SENATOR MURANTE: Additional proponent testimony to LB89? Welcome back. [LB89]

CHRISTY ABRAHAM: Senator Murante, members of the Government Committee, thank you. It's so nice to see you and your excellent staff. My name is Christy Abraham, C-h-r-i-s-t-y, Abraham, A-b-r-a-h-a-m, representing the League of Nebraska Municipalities. And I do not want to be repetitive, so I just want to say, yes, us, too. We agree. It provides clarity for us. I've only been with the League for about three months and you'd be surprised how many questions I've already taken on this issue. There seems to be a lot of confusion about how to count days and this provides a lot of clarity for municipalities. And so we appreciate Senator Hughes introducing it. And any time you're on the same side as Senator Hughes and Senator Karpisek, it's a good day. So thank you so much and I'm happy to take any questions. [LB89]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Can you think of a precedent where those two things have happened before? (Laughter) [LB89]

CHRISTY ABRAHAM: It just feels good. [LB89]

SENATOR MURANTE: It feels right, doesn't it? Thank you. Oh, okay, okay, got it. Any additional proponent testimony to LB89? Is there any opposition testimony to LB89? Is there any neutral testimony to LB89? [LB89]

JERRY STILMOCK: Mr. Chairman, members of the committee, my name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my clients the Nebraska State Volunteer Fire Fighters Association and the Nebraska Fire Chiefs Association. Just take a moment of public thanks to Senator Hughes for recognizing that the fire district statutes, 35-507 that Senator

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

Government, Military and Veterans Affairs Committee
January 19, 2017

Hughes referred to does have a separate notice provision and just want to thank him for recommending to the committee to incorporate his amendment into the bill. That's all I have. Thank you very much. [LB89]

SENATOR MURANTE: Well, once the amendment is into the bill, will you be supportive? [LB89]

JERRY STILMOCK: I believe so, yeah. [LB89]

SENATOR MURANTE: Thank you. Any additional questions? Seeing none, thank you very much, Mr. Stilmock. [LB89]

JERRY STILMOCK: Thank you, Senators. [LB89]

SENATOR MURANTE: Additional neutral testimony for LB89? Seeing none, Senator Hughes waives closing and we'll proceed to the final item on the agenda, LB90. Senator Hughes, welcome back. [LB89]

SENATOR HUGHES: Good to be back, Chairman Murante. [LB90]

SENATOR MURANTE: It's great to have you. [LB90]

SENATOR HUGHES: Thank you, Chairman Murante, members of the Government, Military and Veterans Affairs Committee. For the record my name is Senator Dan Hughes. That is D-a-n H-u-g-h-e-s and I represent the 44th Legislative District. I'm here today to introduce LB90 at the request of Charlie Janssen, the Nebraska Auditor of Public Accounts. LB90 states that when an employee of the Auditor of Public Accounts conducts an audit or an examination of any public entity, the public entity shall provide suitable accommodations for such employee of the auditor at the location request where the requested information and records are kept or stored. Such accommodations shall include desks or tables and chairs, electrical outlets, and Internet access if such access is available. The reason for this bill is to save the Auditor's Office time which saves money when conducting an audit or examination. If the auditors are given a work space in a different location then where records are kept, a lot of time is wasted going back and forth from location to location. I've been told by the Auditor's Office that this does become an issue more often than one would think. This is very commonsense bill to help the Auditor's Office be more efficient. There are people here from the Auditor's Office that can go into further detail if you have specific questions, but I would be glad to try and answer any questions that you may have of me. Thank you. [LB90]

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

Government, Military and Veterans Affairs Committee
January 19, 2017

SENATOR MURANTE: Thank you, Senator Hughes. Are there any questions? Seeing none, thank you very much. [LB90]

SENATOR HUGHES: Thank you. [LB90]

SENATOR MURANTE: Senator Karpisek. [LB90]

RUSS KARPISEK: Thank you once again, Senator Murante and members of the committee. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, I'm the legislative liaison for Auditor Charlie Janssen. As Senator Hughes said, I think this is just a commonsense bill. Gives us a place where the records are kept. We're not asking for any...it says "suitable accommodations"; we're not asking for any crazy accommodations. To be honest with you, I think that this is a personal issue with some people in the Auditor's Office. Believe it or not, not everyone likes to see the auditor coming. And I don't want to get into who or where this has happened, but it does happen more than one would think. Some places even put our auditors in a hallway which we're fine with; maybe they're not, but I'm sure the auditor is. But so we don't have to walk two or three blocks back and forth to get a record or to talk to someone to ask about it. Again, it's just a time saving issue. We've talked about timeliness in issues today...timeliness in audits. Well, one of the biggest hangups is if you have to put everything down, go get it, you know, every time you get up away from your desk and try to start over...or anyway when I do, figure out where you were, it just takes a lot of time. So we would just like to ask that to be considered. And I guess it's just good management. Thank you, Senator. [LB90]

SENATOR MURANTE: Thank you, Senator Karpisek. Are there any questions? Senator Hilgers. [LB90]

SENATOR HILGERS: Thank you, again, for your testimony. It seems like a time saver to me. I guess my one question is, are there ever any instances in which there just simply is no room at the inn. And there is just no availability, they're not trying to kick you out. It's just... [LB90]

RUSS KARPISEK: I think that you may hear that behind me. But I guess I personally tried to think about how we can say that, unless there just isn't anywhere. Well, you know, there's always an excuse why there isn't. So, I guess if there really isn't, there really isn't. But to put you, maybe, three block away, I don't think that that's necessary. [LB90]

SENATOR HILGERS: Okay. [LB90]

RUSS KARPISEK: Thank you, Senator Hilgers. [LB90]

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

Government, Military and Veterans Affairs Committee
January 19, 2017

SENATOR MURANTE: Senator Blood. [LB90]

SENATOR BLOOD: So I'm not sure I've heard, how many times has this happened in the past that there has not been...and you kind of answered it, but say in the last five years. [LB90]

RUSS KARPISEK: Oh gosh, I've only been there for two, so I don't know. [LB90]

SENATOR BLOOD: Okay, say in the last two years. [LB90]

RUSS KARPISEK: Two years, oh, I would say that maybe 10, 12 times. [LB90]

SENATOR BLOOD: Out of how many times? [LB90]

RUSS KARPISEK: Oh, well, we do hundreds of audits. [LB90]

SENATOR BLOOD: And how did you remedy that? [LB90]

RUSS KARPISEK: We just had to be where they put us. We've asked to be moved and the answer is usually no. [LB90]

SENATOR BLOOD: But space was provided, just not space that was as adequate as what's described in the state statute? [LB90]

RUSS KARPISEK: Yes, as close of a location. [LB90]

SENATOR BLOOD: Thank you. [LB90]

RUSS KARPISEK: Thank you. [LB90]

SENATOR MURANTE: Thank you. [LB90]

RUSS KARPISEK: I really miss having my turn to close on bills, Senator. (Laughter) [LB90]

SENATOR MURANTE: We're not so sure. [LB90]

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

Government, Military and Veterans Affairs Committee
January 19, 2017

RUSS KARPISEK: Yeah, I know you're happy about it. [LB90]

SENATOR MURANTE: Thank you very much for your testimony, appreciate it. [LB90]

RUSS KARPISEK: Thank you, committee. [LB90]

SENATOR MURANTE: Additional proponent testimony for LB90? Seeing none, is there opposition testimony to LB90? Seeing none, is there neutral testimony to LB90? Welcome back. [LB90]

CHRISTY ABRAHAM: Thank you. I promise my last time today. Good afternoon, members of the Government Committee. My name is Christy Abraham, C-h-r-i-s-t-y A-b-r-a-h-a-m, representing the League of Nebraska Municipalities. And we certainly appreciate Mr. Karpisek's testimony and the Auditor's concerns. And we certainly understand that they want to be close to the record. And I was certainly grateful to hear that explanation. The issues that we just wanted to bring to you was when you use the phrase "suitable accommodations," again, in some of our smaller communities, as I've mentioned before, you have a volunteer part-time clerk and maybe the only municipal space is his or her very small office with just his or her desk and that's the only place that that village has for the auditor. If the auditor is happy to be in that small space as long as they are close to the records that's just fine. We just wanted to raise the concern that sometimes accommodating an auditor in small spaces may be difficult. We just wanted to raise that with you. But thank you for your time. I'm happy to answer any questions. [LB90]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you for coming down. [LB90]

CHRISTY ABRAHAM: Thank you. [LB90]

SENATOR MURANTE: Is there additional neutral testimony to LB90? Seeing none, Senator Hughes. [LB90]

SENATOR HUGHES: Thank you, Mr. Chairman. Just one comment on the last testifier that if it is a small municipality that has a very small office space, I'm sure the audit would take a very short time. (Laughter) It probably would not be an inconvenience for very long. Thank you very much. [LB90]

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

Government, Military and Veterans Affairs Committee
January 19, 2017

SENATOR MURANTE: Okay. Thank you. Any final questions for Senator Hughes? Seeing none, that concludes the public hearing on LB90 and concludes our public hearings for the day. Thank you very much. We are not going to have an Executive Session today. [LB90]