

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board October 20, 2021
Rough Draft

HUGHES: It's 1:00, so we will get underway. Welcome to the Executive Board Committee. I am Senator Dan Hughes. I am from Venango, Nebraska, and I represent the 44th Legislative District. I serve as Chair of this committee. On today's agenda, we will begin with LR226, an interim study to examine the ways the Legislature provides oversight of state agencies. And following, we will have a hearing on LR83, an interim study to examine the gubernatorial appointment process. This is your public part of the legislative process and is your opportunity to express your thoughts and inform-- and information on the proposed resolutions before us today. If you are testifying, please fill out a green form found in the back of the room. Hand in your green form to a page or the committee clerk when you come up to testify. When you come up to testify, please speak clearly into the microphone, tell us your name and please spell your first and last name to ensure we get an accurate record. When you see the-- the legislative resolution hearing before us-- this is a legislative resolution hearing, therefore, no positions are taken on the LR. The hearing is for information gathering purposes only. The introducer will begin, followed by invited experts, than anyone wishing to testify. If you have handouts, the materials may be distributed to committee members as exhibits only while testimony is being offered. Please make sure you have 13 copies and give them to the page when you come up to testify. They will be distributed to the committee and staff. Please silence or turn off your cell phones. If you do not wish to testify today, but would like to record your name as being present at the hearing, there is a separate white sheet on the table that you can sign in for that purpose. The sign-in sheet will become an exhibit in the permanent record at the end of today's hearing. The committee members with us today will introduce themselves beginning on my left, Senator John McCollister.

McCOLLISTER: John McCollister, District 20, central Omaha.

SLAMA: Julie Slama, District 1: Otoe, Nemaha, Johnson, Pawnee, and Richardson Counties.

HUGHES: And on my right.

LOWE: John Lowe, District 37: Kearney, Gibbon, and Shelton.

HUGHES: To my left is legal counsel Andrew Vinton, who is filling in for Janice Satra, who is out of town today. And to my far right is the committee clerk, Mandy Mizerski. Our page for today is Jason. Thank

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board October 20, 2021
Rough Draft

you, Jason, for being here. And with that, we will open on LR226.
Senator Cavanaugh, welcome to the Executive Board.

M. CAVANAUGH: Thank you, Chairman Hughes and members of the Executive Board. My name is Machaela Cavanaugh, M-a-c-h-a-e-l-a C-a-v-a-n-a-u-g-h, representing District 6 in Omaha. And thank you for holding this hearing. Today's topic is legislative oversight and which, of course, covers a large variety of actions for the Legislature. The most visible form is the Legislative Oversight Committee during a crisis in the appropriations process. The less visible forms include committee staff and sometimes personal staff reviewing rule and regulation changes. Another form is the Performance Audit Committee and the work of the Auditor's Office. Almost everything the Legislature does has a component of oversight in it. We constantly need to be asking ourselves, how are we doing-- how are we doing? Are there ways we could improve our oversight process? Are there changes necessary to do changing political landscape or federal law or regulation changes? Are we doing it in a way that assures us the public that-- and the public that the laws we establish are being carried out as intended and in the best way for our constituents across the state? Doing at-- are we doing adequate evaluation on an ongoing basis? These questions and more are what I hope will be discussed in this hearing and on an ongoing basis. Your committee plays a key role. Carl Levin was a U.S. representative from Michigan who was well known for his bipartisan oversight efforts. In his honor, the Levin Center at Wayne State Law in Detroit was established. They have created a specialty in the subject of legislative oversight, both at the federal and state level. I've invited a representative from the Levin Center to follow me in on-- in this testimony today. This morning we had a training that was held that reviewed aspects of oversight we use in Nebraska and asked the question, can we do oversight better? How do we compare to other states? In case you weren't able to attend the session-- that session, which legal counsel I know was there today, I will be providing you with information from the training. I believe you have the binders that were used for the training this morning, which also acted as a continuing education for attorneys in the state. At over-- at stateoversightmap.org, the Levin Center has created an interactive map of oversight functioning of all 50 states. I encourage you to explore it. This map is an analysis of state oversight functioning that great states on the use of oversight functions. In this analysis, states were ranked in eight different areas of oversight. Nebraska ranked as moderate in, in several categories. In appropriations, we are ranked, are ranked as limited.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board October 20, 2021
Rough Draft

In contrast, oversight and oversight through administrative rule are ranked as minimal. Because of the failed child welfare contracts, we are painfully aware of our need to improve contract oversight. However, oversight through advice and consent is interesting as well. An example of this is approval of gubernatorial appointments that Senator Hansen will be talking about after this hearing. OK, sorry, it's lot to say about oversight. So I, I could probably talk about oversight for a really long time, but we'll hear from some much more interesting testifiers than myself. I will say that if you would like a copy of the binders that you have, we do have a digital copy as well that my office can provide for you and your staff. And with that, I will take any questions you have.

HUGHES: Thank you, Senator Cavanaugh. Are there any questions from the committee members? Seeing none, thank you.

M. CAVANAUGH: Thank you.

HUGHES: The first testifier on LR226. Come on up. Welcome.

BEN EIKEY: Thank you, Mr. Chair. And good afternoon, everybody. Thank you for allowing me the chance to be able to be here and to testify in support of LR226. My name is Ben Eikey and I am from the Levin Center at Wayne State University Law School in Detroit, Michigan.

HUGHES: Excuse me. Would you spell your name, please?

BEN EIKEY: Yes, I'm happy to. It's a pretty rare last name. Eikey, E-i-k-e-y.

HUGHES: OK, go ahead.

BEN EIKEY: Thank you. We're a center dedicated to the enhancement of legislative oversight in fact-based civil discourse. Before joining the Levin Center, I worked in the Michigan Legislature for four years. Three out of the four, my boss was the chair of Corrections Appropriations Subcommittee. And also I spent time in Washington, D.C., as a legislative fellow in the office of U.S. Congressman John Molinar from Michigan. I'm delighted to testify today in support of LR226, and I thank the sponsor, Senator Cavanaugh, for her leadership in introducing this resolution. The Levin Center would like to commend the Executive Board of the Legislative Council for holding this hearing on LR226. This resolution seeks an interim study to examine how the Nebraska Legislature conducts oversight and how it might do a better job getting to the bottom of important issues. The Levin

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board October 20, 2021
Rough Draft

Center's founder, the late Senator Carl Levin, believed that good government requires good oversight. So we strongly support steps to strengthen oversight efforts. Better oversight would help the Nebraska Legislature to better safeguard taxpayer dollars, monitor state agencies, ensure wise use of public resources, and engage in decision-making based on established facts. Today, state legislative oversight efforts vary dramatically across the country. Many state legislatures engage in minimal oversight of important functions, such as state contracting. Those are two of the conclusions of an academic study conducted by the Levin Center in 2018 to take an in-depth look at how all 50 state legislatures were conducting oversight. The study's findings, which were published in 2019, focused on six different dimensions to evaluate legislative oversight efforts in every state, including Nebraska, and they're available at www.stateoversightmap.org. Nebraska was also one of ten states highlighted in a 2020 Nebraska-- or Nebraska-- Levin Center case study on how state legislatures monitored emergency contracts signed in response to the pandemic. This report is entitled "State Legislative Oversight of Emergency Contracts Related to COVID-19: Three Case Studies." Those three case studies being: testing supplies, PPE, and consulting for unemployment systems. These are all also available on the Levin Center's website. The 50-state study is now two years old, and the pandemic study is far from comprehensive, and both studies were conducted by people from outside of the state, which is why the study proposed by LR226, is both fitting and timely. In addition, this body already has a legislative Auditor with expertise and resources to do the job. Oversight in the Nebraska Legislature appears to have several positive aspects, which include not only its own legislative Auditor but also special oversight committees: an elected Auditor of Public Accounts and specific Inspector General offices for Corrections and Children's Behavioral Services. At the same time, legislative-- Nebraska's legislative oversight regime has some gaps and vulnerabilities. For example, contract oversight does not appear to be assigned to a specific legislative committee, and oversight mechanisms may not be in place to allow contract or other oversight during periods when the Legislature is not in session. These and other aspects of legislative oversight could be discussed and improved should this board approve LR226. It may be useful to know that other state legislatures have commissioned and used studies to revamp and strengthen their oversight efforts, especially concerning state spending through state contracts. Recent examples of this include: Idaho, Louisiana, and Hawaii. The experience of those states demonstrates that oversight studies are both practical and productive.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board October 20, 2021
Rough Draft

It is good to see the Nebraska Legislature's Executive Board considering ways in which the Nebraska Legislature might join its fellow state legislatures in strengthening oversight, safeguarding taxpayer dollars, and ensuring better services for residents. LR226 offers a way to advance those goals by confirming current oversight efforts and identify potential improvements through this interim study. In an addendum to my statement, I've included additional information about existing oversight studies and best oversight practices that could be considered during the course of any such study. Thank you for allowing the Levin Center to be a part of your oversight review process, and I'm happy to answer any questions.

HUGHES: Thank you very much. Are there questions from the committee? Seeing none, thank you for your testimony.

BEN EIKEY: Thank you.

HUGHES: Additional testifiers on LR26 [SIC--LR226]. Come on up.

CINDY MAXWELL-OSTDIEK: I'm sorry, I don't have a green sheet.

HUGHES: You can fill it out afterwards.

CINDY MAXWELL-OSTDIEK: Thank you.

HUGHES: Welcome.

CINDY MAXWELL-OSTDIEK: Thank you. My name is Cindy Maxwell-Ostdiek, and that's C-i-n-d-y M-a-x-w-e-l-l hyphen O-s-t-d-i-e-k, and I live in Omaha. I'm a resident of District 4 and I'm a founding member of the Nebraska Legislative Study Group. We follow the Legislature closely, and we ask the Legislature to please conduct this interim study that's brought in the resolution, LR226. We're not experts regarding oversight and person who testified previously had excellent points. We just wanted to let you know that we're everyday Nebraskans asking for this to take place. There have been many concerning situations recently, and we are expecting that the Legislature would conduct more of their authority in inspecting and correcting these situations. I--my husband has an excellent saying and he says: You should inspect for what you expect. And he's used that saying whenever she is involved with different business dealings. And I think that is a good example of something we should do here. We expect the laws to be carried out on our behalf in a fair and just manner correctly, prudently, and in a way that is transparent and that the laws are accountable. Excuse me, the effects of the laws are accountable to the Legislature. We elect

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board October 20, 2021
Rough Draft

you to take care of that for us. We just feel strongly about it and wanted to be here today to say that.

HUGHES: OK.

CINDY MAXWELL-OSTDIEK: Thank you.

HUGHES: Thank you, Miss Maxwell-Light?

CINDY MAXWELL-OSTDIEK: Maxwell-Ostdiek.

HUGHES: Ostdiek. Very good. Any questions from the committee?

CINDY MAXWELL-OSTDIEK: Thank you.

HUGHES: Seeing none, thank you for coming in today. Any additional testifiers on LR226? Seeing none, Senator Cavanaugh, do you wish to close?

M. CAVANAUGH: Yes, I just want to briefly close and say that, again, thank you to Mr. Ben Eikey, Eikey, learned how to say his name this morning at the training, to Mr. Eikey for coming from Michigan. The work that they have done across the country in government oversight has been really fascinating. And in addition to legislating, of course, it is our role to provide oversight to state agencies. And one of the conversations that we had this morning was the fact that we are a state with term limits and a Unicameral. And so that role of oversight and educating our Legislature on the role of oversight becomes even more crucial so that as we have people coming through our legislative body and having young-- a younger with background in the Legislature class, it's just very helpful to keep an eye on the role of oversight in the Nebraska Legislature. So I appreciate your time today. And again, I welcome any questions, and I think that there's some really great information in the binders today. I know that a lot of our legal counsels in the body attended, and so I think you can talk to them as well.

HUGHES: Very good. Any questions? Senator McCollister.

McCOLLISTER: Yeah, thank you, Mr. Chairman. Senator Cavanaugh, can you point out any specific examples of where the state has fallen short of oversight?

M. CAVANAUGH: When we've fallen short of oversight? So since I've been here, we've done quite a bit of oversight in regards to child welfare.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board October 20, 2021
Rough Draft

Both with the YRTC Oversight Committee and the LR29 Oversight Committee into Saint Francis Ministries. I think that we have a great opportunity to do more oversight when it comes to Corrections. I think there's opportunities for more specific, but since I am not, that's not my purview, I couldn't speak to specific instances, but I do think that that's a great opportunity. And as Mr. Eikey said, contracts. If there's anything I think the committees have learned from the Saint Francis Ministries' situation is that having more oversight in contracts is going to be really crucial to maintaining a, a balanced relationship with whatever the administration-- whoever the administration is.

McCOLLISTER: Yeah, thank you. Senator Mark Kolterman has a bill to modernize or at least update the, the contracts that come out of the Administrative Office. Do you have any comment on, on that bill or any other bill that would rectify the situation that you see as being deficient?

M. CAVANAUGH: I think the bill that Senator Kolterman has is really an important step in addressing how our procurement process works. And our procurement process, it can't be a one-size-fits-all for, for contracts. A contract for a construction company shouldn't be evaluated the same way as a contract for child welfare, especially when it comes to cost. Because when you're looking, when you're looking at costs for some-- a construction project, it's so much different than when you're looking at costs for child welfare. And so I think that Senator Kolterman's bill is a really excellent step that will help fill in some of those gaps. But I think we also heard Mr. Eikey say that a contract audit committee is something that maybe the Legislature should commit-- consider or even perhaps expanding the powers of the Performance Audit Committee to include contract audit as a--

McCOLLISTER: Do you believe that transparency and some kind of appeal process should be a part of that solution?

M. CAVANAUGH: For the procurement process? I think transparency is always a good thing. I am a big fan of transparency. I think that when it comes to the procurement process, there definitely should be a clearer direction on how you can appeal and it should be reasonable. One of the things we heard from Mr. Jackson, who's the head of Department of Administrative Services, is concern over basically frivolous lawsuits. But I think that we have enough thoughtful people in the Legislature that have a background in law and our legal

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board October 20, 2021
Rough Draft

counsels in the body as well that can help guide and direct legislation that does not lead to frivolous lawsuits, but leads to a more transparent, clearer process.

McCOLLISTER: Thank you, Senator. Thank you, Mr. Chairman.

HUGHES: Thank you, Senator McCollister. Any other questions? Seeing none, thank you, Senator Cavanaugh.

M. CAVANAUGH: Thank you.

HUGHES: That will close our hearing on LR226. And we will open our next hearing on LR83. Senator Hansen, welcome to the Executive Board.

M. HANSEN: Thank you.

HUGHES: Go ahead.

M. HANSEN: All right. Good afternoon, Chairman Hughes and members of the Executive Board. My name is Senator Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent District 26, which is northeast Lincoln. I'm here today to present LR83, my interim study to examine the appointment process for our various boards and commissions, including the recruitment process for appointees, whether vacancies can be filled more efficiently, and anything the Legislature could potentially do to encourage more transparency on this process and ultimately more diverse representation on our boards and commissions. In preparation for the study, my staff and I relied on the most recent report from the Legislative Research Office from last November 2020. I think LRO has done an excellent job with the report, and I would recommend it to everyone look through it to understand the structures and duties of many boards and commissions. The Legislature creates boards and commissions as well as dictates memberships, powers, and duties. There are 12 boards enumerated in the state constitution and 228 statute created boards, 53 of which are state agencies. And just to give a context of how much this changes sometimes, in the 2019-2020 session, we created 9 new boards and commissions, but also eliminated 4. With 228 boards, there are always going to be vacancies and openings that have yet to be filled. But I think it's something we should be more aware of. The most recent blue book listed vacancies on over 30 different boards and commissions, with several having as many as three to five vacancies on just one board. Obviously, every situation is unique, and there may be different statutory requirements for each position that can make it difficult to recruit a candidate,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board October 20, 2021
Rough Draft

but many others are open to just public members, of which there would arguably be a wide pool of eligible persons to serve. I decided to bring this resolution after the debates and discussions on a variety of legislative appointments over the last few years. Earlier this year, you'll remember how we had a discussion about how our Board of Health, there's only one woman and no members of color serving on that board. During that debate, there's a whole host of reasons were suggested on why this might happen, which led to this specific LR. Obviously, having representation on a board such as the Board of Health is just one example, but it does highlight how a lack of diverse representation can have policy implications. We rely on these boards and commissions to do the work we simply don't have time to do in the Legislature. They are often our eyes and ears on the ground specializing in issues that are important to different groups of Nebraskans and sharing their findings with us on which we rely to make policy. I am of the belief that these important bodies should reflect the diversity of Nebraska whenever possible, and certainly currently I don't believe we have the information we need to make positive changes to encourage them. For example, how are we recruiting applicants for these positions? I know many senators who share their information with their newsletter or email list or social media followers. But how is that information on these positions being shared more broadly? If the process for soliciting applications was more transparent, we might have a better understanding of where we're lacking and what groups we need to share this information with more regularly. This could also be helpful to address other issues I mentioned before, such as the wide number of vacancies on some boards. I'm not sure yet on how we should move forward and believe this is an important issue. It might be helpful to ask the Legislative Research Office to send out a survey to existing boards to determine the diversity of membership in different categories such as race, gender, and location. Likewise, it might be helpful to look at processes we have in statute that do not apply to all situations. For example, we currently have a judicial nominating commission which submits nominations to the Governor, and we could consider whether or not a similar process would be helpful for other boards. Similarly in 2020-- apologize-- similarly in 2020, we patched a bill which required certain boards to be filled within six months of a vacancy at the local municipal level. And I would wonder if it's something that we should look at applying to state boards as well. With that, I'd like to note that we did reach out to the Policy Research Office as they are directly involved in this process, and I believe that they have shared a letter with more information about the process they use in recruiting and nominating applicants. I'm not sure

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board October 20, 2021
Rough Draft

who else we'll have here testifying today, and this is-- represents just a first step in my process of trying to get a whole grasp and handle of how appointment to our state boards and commissions. With that, will close and be happy to work with the committee to figure out how to best move forward.

HUGHES: Thank you, Senator Hansen. Are there questions? Senator McCollister.

McCOLLISTER: Thank you, Mr. Chairman. Thank you, Senator Hansen. There's a difference between how election commissioners are selected in three of the largest counties and the rest of the counties in Nebraska. Can you tell us how that came to be?

M. HANSEN: Sure. So my understanding is the three largest election commissioners are appointed by the Governor and they have been for close to a century, if not over a century. And I think originally that was done to create and fight against some of the party bosses and kind of some of the spoil system that we had primarily in Omaha at that time. So that's the historical perspective. Boards, election commissioners are also appointed in several other of the largest counties. I think a number of about five, and that's-- but those are appointed by the county board when they make the decision to split it from the county clerk.

McCOLLISTER: Did you author a bill to change that situation in those three most populous counties?

M. HANSEN: Yeah, I've brought that, I've brought that bill twice in the Government Committee of what you've, what you've heard, I think, at least this session. That was also my initial request for an Attorney General's Opinion, also sparked a Supreme Court case of which they ruled that that position was constitutional. There was a disagreement between the Secretary of State and Attorney General and the Secretary of State's interpretation ended up being promoted.

McCOLLISTER: So the Attorney General authored an opinion on that. Can you enlighten us on the opinion that he authored?

M. HANSEN: Sure. The, the initial opinion was Nebraska has a requirement in our constitution that all county officers be elected by the people. And so then there was a decision of whether or not election commissioner was a county officer. The Attorney General argued that they were, the Secretary of State argued that they

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board October 20, 2021
Rough Draft

weren't, and the Supreme Court ultimately decided with the Secretary of State.

McCOLLISTER: OK. Another line of questions.

M. HANSEN: Sure.

McCOLLISTER: Are you asserting that if we had greater diversity in some of the positions chosen that would end up in better government?

M. HANSEN: Yes. And if I could elaborate on that, it's, it's one of those things that obviously representation matters and we talk about and think about it where obviously the point of these boards and commissions is to get a more diverse, however, we want to broaden that whether that's, you know, professionally, experience, like, geographic location, whatever you want to frame it. The point of boards and commissions and the point of having a whole board is to get a variety of different opinions on that. And so that's part of the reason that making sure that the boards do in fact represent kind of the diversity of our state is important.

McCOLLISTER: Isn't it true that some of the selections included on the boards have some of-- some requirements on which members can attend or which members can belong to that board?

M. HANSEN: Yeah, so we see that, it's pretty common with boards and commissions. Oftentimes, they'll be, depending on the board, they'll be, you know, geographic requirement, you know, picking two people from each congressional district or something like that's common, as well as other things like, you know, professional certifications. Sometimes, you know, you have a board that, you know, requires one just, you know, one attorney and like one layperson and one doctor or, you know, what, what have you. And that's kind of like some of this diversity is kind of in terms of, you know, professional or education certification, however, you want to frame it, it's kind of baked in.

McCOLLISTER: OK. Thank you, Senator. Thank you, Mr. Chairman.

HUGHES: Any other questions? I guess most of these boards and commissions are filled with volunteers. Is that correct?

M. HANSEN: Yeah, so it's usually a volunteer position, and we're-- a few of them get per diem. A lot of them just get mileage and reimbursement. And so that's kind of the thing that, you know, if we're having a lot of vacancies just simply because nobody wants to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board October 20, 2021
Rough Draft

serve, that's its own problem on its own. And do we need to, you know, should the board exist? Should we change it up? Do we need to entice people with a per diem? That's kind of one of the things I'm driving down into. That's part of the problem with having 228 of them is trying to, you know, oftentimes they're siloed within a different, you know, standing committee who gets used to it. But that's like trying to survey it broadly as, as best I can.

HUGHES: But that the fact that they are volunteers does certainly limit the Governor's pool of applicants.

M. HANSEN: Yeah, and that's, and that's the thing is, is, you know, it's kind of-- it's like, it's like with anything is, you know, you know, like when you're hiring for a job, you can only really hire from the people who apply or who are interested. And depending on your location, what you're offering, you know, there's, there's going to be a limited pool, and I recognize that. There's things you can do to make yourself more interesting to get yourself on more people's radar. There's things you can do, do in that instance.

HUGHES: OK, very good. Any additional questions?

M. HANSEN: And I think I'd just say I, I-- my focus on LR83 really is the boards and commissions. You know, there are other Governor appointed things in other facilities. That's not what I was trying to focus on here today. This was very much, we'd had a couple of different conversations where the concern and worry was that if we rejected an applicant on the floor of the Legislature that we might not get another applicant and it might be vacant. That was some of my initial genesis for that is, is that true? Are we really at that risk of having so few people step up and throw their name into the hat? So.

HUGHES: OK, very good.

M. HANSEN: All right, thank you.

HUGHES: Next testifier on LB83. Welcome.

SPIKE EICKHOLT: Good afternoon, my name is Spike Eickholt, S-p-i-k-e, last name is E-i-c-k-h-o-l-t. I'm appearing on behalf of the ACLU Nebraska, testifying on LR83. You've got a copy of my testimony, so I'm not going to read it. But I would just like to summarize some points. As Senator Hansen indicated, there are a significant number of boards and commissions in state government and these are state governmental bodies, even though they have different purposes and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board October 20, 2021
Rough Draft

different roles. And since they are entities or components of government, they should be representational of Nebraskans, and that is representational in terms of race, gender, ethnicity, but also in terms of to the extent possible of geographic location and gender and other factors such as that. Admittedly, I don't know that we know whether they are representational or not. I think that during the debate last session what Senator Hansen indicated there was an impression that some of the commissions are not. But we don't really have a way of measuring the, the membership status, if you will, of all the different people on the commissions. And that's maybe one area to look at for focus. As Senator Hansen indicated, some board membership does require certain technical expertise. In other words, certain boards, particularly those that are within the Health and Human Services Agency, those necessarily will have applicants and perhaps that are of limited purpose. But many other commissions and boards deliberately have either members or certain seats on those boards that are designated for people who are not professionals, people who are not connected with government. And that's deliberate because that's a way or one way that boards and commissions have is a way to sort of engage the second house to encourage and to facilitate the inclusion of the people to participate in government. And that's one, I think, concern that, that I heard at least expressed on the floor that the Legislature has that perhaps not being met. One of the proposals in LR83 is looking for ways to possibly change the gubernatorial process-- the gubernatorial appointment process for commissions. One way looking from my perspective of being here at the Capitol, the impression I have for senators, you get someone who's appointed by the Governor, they appear in front of the committee. They seem nice. They seem qualified. They seem to be good. And that's all you really know. In other words, many times senators, and I think some of this was expressed on the floor, you don't know who else may have applied, who else may have been not selected as opposed to the person who's appointed that's before the committee and before the Legislature now. So that's maybe one way to sort of reform that process to make it maybe more open perhaps to have the, the Governor's Office be more interactive with the Legislature as far as their applicant pool and that sort of thing. I looked online, it looks like the way to be considered for a board membership is to complete a two-page application that you can do online and I think you can submit like a resume, that sort of thing. And then you can select which committees or which boards or commissions you want to be considered for. And there are quite a few vacancies right now. And I don't know if there's any way of measuring how many or how effective that way of applying

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board October 20, 2021
Rough Draft

is, is being made. In other words, the Governor's Office does promote some of these things, but perhaps the Legislature could also weigh in and do that as well. There was some concern expressed that Senator Hansen indicated that perhaps some of the committees and some of the boards aren't representational when it comes to terms of race and ethnicity. You do have a number of commissions that are designated solely for the advancements of, of people of a certain race. You have the African-American Commission, you have the Latino-American Commission, the Indian Commission. Perhaps one change might be to change their statutory purpose to suggest that they encourage some of the constituent groups to apply and engage in applying for some of these other boards and commissions. In other words, they serve as a clearinghouse or a way to enable and encourage their membership groups to apply for some of these other positions. One other thing I think that you might want to look at to consider reform is, is to ask whether the Legislature has given enough information, not just for those who may have applied, but are you given enough time to actually consider an applicant? Is the public given enough notice as to who is confirmed? For instance, when you see the agenda on the floor, oftentimes for the agenda it'll have bill number and it'll have gubernatorial appointees and they'll just list the page number of the Journal. In other words, they won't list the person who's being appointed, they won't list the office they're being appointed to. Now I, as a lobbyist, can look up in that Journal and see who they are and then follow from there and see the committee statement. But a person watching from home, a person who is not really connected to this building may not realize or appreciate that, and that's one perhaps simple way of reforming to provide for more transparency. And as Senator Hansen indicated, every year Legislative Research Office does do a, a very well done, and I hope Nancy Cyr is watching because I want to compliment her for it, a very comprehensive way of summarizing the changes to the current boards and commissions. And perhaps they could be tasked with maybe more in-depth analysis to see which ones are necessary. Maybe some could be consolidated. There are a lot more. When I worked here 20-some years ago, there wasn't near as many boards and commissions. I personally think that's a consequence of term limits. And I can explain that if anyone cares, but, but there are a lot more now. And perhaps that's just part of the issue right there because as Senator Hughes indicated, they are generally uncompensated positions. And you may not just have that many people are willing to serve on all those available boards and commissions. So those are just some of the suggestions that we would like to offer. I'll answer any question if anyone has any.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board October 20, 2021
Rough Draft

HUGHES: Thank you, Mr. Eickholt. Are there any questions? Seeing none, thank you for coming in today. Is there any additional testimony on LR83? Come on up. Welcome back.

CINDY MAXWELL-OSTDIEK: Thank you. My name is Cindy Maxwell-Ostdiek, that's C-i-n-d-y M-a-x-w-e-l-l hyphen O-s-t-d-i-e-k. And again, I'm someone from Omaha. I live in Legislative District 4 and I'm a founding member of the Nebraska Legislative Study Group and we are here following this legislation closely and asking the Executive Board to conduct interim study brought in LR83. I'm not an expert, again, like I mentioned earlier. I'm following someone who has really described well the need for this resolution. But we're everyday Nebraskans and we've been watching the Legislature and remember the day that Senator Hansen is talking about when this was coming up, it was actually more than one day. And we expect that boards, commissions, and similar entities represent a cross-section of our state, including black, indigenous, and people of color, people of various national origin and cultures, women, LGBTQ+, disabled, people of all religions, as well as the nonreligious, and Nebraskans from all socioeconomic background. We believe the oversight of some of these boards would be particularly served if members of the boards were recruited from the constituency that the entities serve. We ask this interim study include reaching out to the very people and organizations represented by those above diverse groups and ask them how our state can do better and more accurately reflect everyone in our state. And then this is me personally speaking for myself. Yes, representation matters and more diverse representation will definitely result in better government as a person with business and recruiting background. I can tell you that the commitment to diversity, the commitment to finding people with different voice is essential to actually getting the result of more commitment-- or excuse me, more diverse representation and diverse results. So it is something that the Governor and the Legislature can take action as far as specifically seeking out and advertising, as well as recruiting from various entities. It is something that I'm sure they would see results within a very short period of time if we were to do that. Thank you.

HUGHES: Very good. Any questions? Thank you--

CINDY MAXWELL-OSTDIEK: Thank you.

HUGHES: --for coming in today. Is there any additional testimony on LB83? Seeing none, Senator Hansen, do you wish to close? While Senator Hansen is coming up, we do have two letters that came in. One from

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board October 20, 2021
Rough Draft

Governor Pete Ricketts and one from Tiffany Joekel of the Omaha Women's Fund. Senator Hansen.

M. HANSEN: Thank you, Chairman Hughes, and thank you members of the committee. You know, this is a pretty broad reaching legislative resolution. Just from my experience, this is something that I think we as a Legislature could benefit from just kind of examining and reflecting. And if we choose to stay largely as we are, we'll at least do so with the knowledge that we've looked at it and decided it's a good point. I appreciate-- as I said, I reached out to PRO and, ultimately, Governor Ricketts sent a letter in explaining his process. I appreciate him sending in the letter and willing to kind of go on record how he goes through it. It does seem he relies kind of heavily on applicants coming through the website portal he has posted. So maybe one of the solutions or opportunities for improvement or however we want to frame it is, is, you know, all of us making sure that our constituents and others know about that and that opportunity. Likewise, you know, looking at it kind of holistically, you know, you kind of doing it different things of obviously, you know, sometimes the appointments are confirmed, sometimes they're not. Sometimes they're, you know, the hearings, as we all know, can unfortunately be pretty perfunctory. And we're not necessarily, you know, we're asking people to drive across the state to not really answer much time or spend much questions. So I think like the whole process itself could be something that including in our own rules or in structure can be examined. Just to kind of get some context, it's-- I don't have anything to recent, the most recent is 2010, but National Conference of State Legislatures did a survey at that time with all the states and how they did appointment processes. And some states have like, for example, standing appointment committees that just hear appointments and it's not outside of the standing, you know, subject matter committees. Other states, this goes too far, but it seems that Florida does a complete law enforcement background check on everybody who gets applied to every board and commission and other places barely have hearings. So it kind of varies on how aggressive the legislature is on oversight. You know, from my perspective, again, you know, making-- getting to the point where we don't really have more vacancies than, than are needed, kind of even having a good handle on how many vacancies exist and for what reasons. And as well as kind of making sure that at least, you know, our pool of interested candidates is being reflected of the state of Nebraska and that all people feel that they have the ability to-- and, and the understanding and the information and maybe just the, the literal know how to how apply and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board October 20, 2021
Rough Draft

be considered. So with that, I'm going to continue working on this. Happy to continue to work with the committee and I'll take any questions.

HUGHES: Any additional comments? Senator McCollister.

McCOLLISTER: Yeah, thank you, Mr. Chairman. Thank you. Senator Hansen. Who compiled the list describing how every state does their, their appointments?

M. HANSEN: NCSL.

McCOLLISTER: Did they make any effort to point out best practices or are those states that do it better than others?

M. HANSEN: The document I have is largely just a survey and a snapshot, and I can provide it to you if you're interested. But they did a survey asking the state to kind of check which boxes applied to them, and not all states applied. And then they also had a snapshot of different state laws on, on any sort of statutory requirements of the procedures, which some are very expansive and some are very brief. But there wasn't, as far as I know, an official best practice.

McCOLLISTER: Thank you. Thank you.

HUGHES: Seeing nothing else, thank you, Senator Hansen.

M. HANSEN: Thank you.

HUGHES: That will conclude our agenda for today and the hearings for the Executive Board.