

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

Executive Board Committee
January 28, 2013

[LB39 LB149 LR20]

The Executive Board of the Legislative Council met at 12:00 p.m. on Monday, January 28, 2013, in Room 2102 of the State Capitol, Lincoln, Nebraska, to conduct a public hearing on LB39, LB149, and LR20. Senators present: John Wightman, Chairperson; Bob Krist, Vice Chairperson; Greg Adams; Kathy Campbell; Ernie Chambers; Mark Christensen; Russ Karpisek; Steve Lathrop; and Heath Mello. Senators absent: Bill Avery.

SENATOR WIGHTMAN: I think we'll go ahead and start. We're lacking several members, but welcome to the Executive Board Committee hearing. My name is John Wightman. I'm from Lexington and represent the 36th Legislative District. I serve as Chair of the Executive Board. We will take up the bills in the order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. To better facilitate today's proceeding, I ask that you abide by the following procedures. Please turn off cell phones or silence them. The order of testimony will be the introducer, then proponents of the bill, followed by opponents of the bill, then those who want to testify in the neutral capacity, and finally closing by the introducer of the bill. Testifiers sign in. And do we have a sign-in?

JANICE SATRA: It's on the table.

SENATOR WIGHTMAN: We have a sign-in, and so hand your sign-in sheet to the committee page, who's located to my right...or, excuse me, my left I guess, the committee...or the committee page is to my right, when you come up to testify. Spell your name for the record before you testify and please be concise. Written materials may be distributed to committee members as exhibits only while testimony is being offered; hand it to the page for distribution to the committee and staff. We need 13 copies. If you have written testimony but do not have 13 copies, please raise your hand so the page can make copies for you. If you do not wish to testify but would like your position to be part of the record, you can sign the form sheet found at the testifier's table by the testifier sign-in sheet. To my immediate right is Committee Counsel Janice Satra; to my left is Committee Clerk Natalie Schunk. The Executive Board members with us today, beginning at my far left, are Senator Bill Avery, who's not here right now, District 28, of Lincoln; and to his right, Senator Mark Christensen, District 44, of Imperial; to the right of Senator Christensen is Senator Steve Lathrop, District 12, Omaha, Nebraska; to his right is Senator Russ Karpisek, District 32, of Wilber; to my right is Senator Ernie Chambers...Bob Krist, excuse me, Vice Chair of the board, from Omaha; to his right and not here yet is Senator Ernie Chambers, District 11, of Omaha; to his right would be Speaker Greg Adams, District 24, York; to Senator Adams' right, Senator Kathy Campbell, District 25, of Lincoln; and not here yet to the far right would be Senator Heath Mello, District 5, of Omaha. We will take up today's bills in the following order.

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First will be LB39, second will be LB149, and third will be LR20. I forgot to mention that to my far right also is the committee clerk, Tess and Matt (inaudible) gone temporarily. So with that, we'll open with LB39, Senator Harms, which is a bill to change and eliminate references to the Legislative Performance Audit Section. Senator Harms.

SENATOR HARMS: (Exhibit 1) Thank you, Senator Wightman and colleagues. For the record, my name is John N. Harms, H-a-r-m-s. I represent the 48th Legislative District and I'm presently serving as the Chair of the Performance Audit Committee. LB39 is a cleanup bill that replaces statutory references to the Legislative Performance Audit Section with references to the Legislative Audit Office. In 2009, the Legislature passed LB620 which established the Legislative Audit Office as a separate legislative division. However, we neglected to amend the Legislative Audit Act to reflect the new office name. Consequently, both "Section" and "Office" exist in the statutes, although they are exactly the same entity. LB39 would simply remove this confusion by eliminating the references of the "Section." And I have an amendment before you that actually clarifies this for you a little better; shows you exactly what needs to be done with that. So I'd be happy to answer any questions. [LB39]

SENATOR WIGHTMAN: Do we have any questions from committee? Yes. [LB39]

SENATOR LATHROP: Not really a question, but thanks for what you're doing. I think that's turned out to be a really important committee. And I know it takes a lot of time and effort, but I appreciate what you're doing, Senator. [LB39]

SENATOR HARMS: Yeah, it does. We have a really good staff. Martha Carter, who's here, is really the one who drives that ship very well for us. And we've had some really tough issues. And one of the things that I have found is that you can't fold up under the pressure, can we, Senator Krist? [LB39]

SENATOR KRIST: No, sir. [LB39]

SENATOR HARMS: You got to stay tough. And you'll find when you start looking at some of these issues, you will...it's interesting to note where all the different pressure comes from. But I think it's an extremely important committee for this Legislature. It's your committee. It's your investigation that we want to look at. And I think we're just getting ready to send out a notice. If there's places you would like for us to look, look at or to investigate, make sure you let us know because we have a great auditing staff and great leadership there, and we'll get the job done. So thank you very much. [LB39]

SENATOR LATHROP: Thanks. [LB39]

SENATOR WIGHTMAN: Thank you. [LB39]

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SENATOR HARMS: Well, thank you very much, Mr. Chairman. Is there any other questions? [LB39]

SENATOR WIGHTMAN: Yes. [LB39]

SENATOR CAMPBELL: Thank you, Senator Wightman. I just want to add to what Senator Lathrop indicated, in that without the Performance Audit Office our work on LR37 would not have been as productive. They were just a great assistance and I cannot say that often enough to thank them for all that work. [LB39]

SENATOR HARMS: You know, and Martha did that short staff. I mean we were short people. And I was amazed by what took place there and very happy about it. [LB39]

SENATOR WIGHTMAN: Thank you. [LB39]

SENATOR HARMS: Well, thank you. Appreciate it. [LB39]

SENATOR WIGHTMAN: Senator Harms, I would like to add my thanks as well. [LB39]

SENATOR HARMS: Welcome. [LB39]

SENATOR WIGHTMAN: And I know you give everybody else credit, but Senator Harms does a lot in this regard as well. [LB39]

SENATOR HARMS: Thank you very much. [LB39]

SENATOR WIGHTMAN: Anybody that came in have any questions? Do we have any further proponents of the bill? Do we have any opponents of the bill? Do we have anyone that wants to address the committee in a neutral capacity? If not, we'll turn to the next bill, LB149, Senator Pirsch. This bill would provide for biennial reviews of state agency programs and services. Mr. Pirsch...Senator Pirsch. [LB39]

SENATOR PIRSCH: You bet. Thank you, Chairman Wightman. My name is Pete Pirsch, P-i-r-s-c-h, District 4, the sponsor of LB149. In my mind, this is a good process bill. It's a simple concept. It basically mirrors something that you're probably pretty familiar with, LR542 process that was used in 2010. It's, in my mind, good because it mandates as part of our routine procedure that we turn around and look at what we've done in past years and see if it still makes sense, if it panned out as promised, whatever the program was, when passed. So I think that's important to put into our daily routine. Requires accountability for those programs that receive state funding, to account for their progress. And it does allow power and flexibility to remain in the hands of the committees and determine if that which was proposed is now working well, then continue with that or increase funding. Or if not working as intended, this would give you

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the opportunity to, I think, better discern that and to reallocate those funds to more deserving programs. So that's it in concept. Thank you. [LB149]

SENATOR WIGHTMAN: Thank you, Senator Pirsch. Senator Adams. [LB149]

SENATOR ADAMS: Senator Pirsch, you, in the opening lines of your introduction, said that this doesn't...it reflects what we did in the LR542 process. [LB149]

SENATOR PIRSCH: Uh-huh. [LB149]

SENATOR ADAMS: Is there a difference? [LB149]

SENATOR PIRSCH: Well, it was...it's essentially the same language. The only difference is I think with respect to perhaps in line 9. I used the terminology, "to reduce wasteful state government expenditures." So in that limited respect, I think it had been changed. Really, I think that sufficiently, you know, in terms of determining what's wasteful, that's in the eyes of the committee I think. So in that sense, I don't think it's a deviation from what was written before. [LB149]

SENATOR WIGHTMAN: Senator Mello, I think you were next. [LB149]

SENATOR MELLO: Thank you, Senator Wightman. Thank you, Senator Pirsch. I actually had a somewhat similar question to Senator Adams, but I'd like you to elaborate. I mean the LR542 process was different in the sense that it identified potential areas of reduction in all state agencies, but it wasn't geared towards, quote unquote, wasteful state government spending. I guess the question is, why would you incorporate "wasteful"? I mean that, to some extent, I find it almost an indictment that anything that the Legislature is currently doing is...we're allowing wasteful spending to occur right now, which I would argue that that's not what's been happening over the last four years. So I mean if you take that language out, is the general concept still there and you're fine with it, of drafting enabling legislation of potential reductions,... [LB149]

SENATOR PIRSCH: Uh-huh. [LB149]

SENATOR MELLO: ...and kind of remove that language? [LB149]

SENATOR PIRSCH: Sure. I thought it might be more helpful to have that particular language. If you want to use the original language, I have absolutely no problem with that. I don't think it changes, in my mind, the reach of this LB from the LR. Again, it's just a...the important thing I think is to have ongoing...you know, I think it was a good thing. It was a one-time shot. But I think it's important to have on an ongoing basis a continual, at least, process whereby...and, you know, look at...when you see the multitude of state agencies' programs and whatnot, at least in theory a process where the committees,

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who are still remaining in control, just as they were with the LR, have the process...have the ability, based on whatever...to whatever level they choose to. Or maybe they say this year we feel fine in not doing anything. But at least in theory it gives you the structural authorization to go ahead and to call into, you know, review over the interim those agencies or programs that you have an interest in kind of maybe gaining a greater understanding of. So if you want to set, you know, for 1 or 2 agencies or 0 agencies to review or 100 agencies, you know, that power as it did with the LR. You know, I think you had an informal agreement that you would be trying to identify 10 percent to...for possible reduction during that down year. That's where it varies. I don't have anything in particular in mind with respect to some percentage that you need to identify. Every committee will probably view it in a different manner. If you are uncomfortable with the language "wasteful state government expenditures," then feel free to change it. I think it's just a restatement of the other language I think. But essentially, that's what you were looking for, right? I mean it doesn't necessarily imply...I mean I think it's agnostic as to, you know, whether it's economic development programs that you find, you know, not performing as they were intended to. It gives you a chance to review it. So with respect to any particular type of programs, there's...I have none in mind and leave that up to the committees. [LB149]

SENATOR MELLO: In line 9,... [LB149]

SENATOR PIRSCH: Uh-huh. [LB149]

SENATOR MELLO: ...line 9 and 13 after that, you use "expenditures." Do you envision then using that term "expenditures" to also include tax credits, tax incentives, any kind of existing exemptions or preferences that are put in a tax code, incorporate those as also expenditures then? [LB149]

SENATOR PIRSCH: Uh-huh. Well, "expenditures" I believe is language that's from the original LR, so I left, I believe, that language intact. But, yeah, I don't care how it's applied. I'm totally agnostic as to which programs. The particular committees, you're where the rubber is hitting the road and you know better than I do which should be the focal point of your...you may feel fine about it, in which case you can just say we've, you know, we're okay with not reviewing, so... [LB149]

SENATOR MELLO: But a question I have, and I can...this is something that in just witnessing the LR542 process from an Appropriations perspective was a little bit unique in compared to what obviously all other committees did, since a lot of the focus was in the other committees outside of the Appropriations process. [LB149]

SENATOR PIRSCH: Sure. [LB149]

SENATOR MELLO: Do you see at all potential challenges that could come if this

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became statute and some committees chose to be overly aggressive in regards to, let's say, looking at all of the agencies that fell under their jurisdiction and wanted to eliminate all programs whatsoever and drafted the enabling legislation to eliminate all potential funding? Let's pick a program. Let's say the Revenue Committee said, we want to eliminate all funding for the Nebraska Advantage Act; we want to eliminate that tax incentive completely. In comparison, where another committee, let's say... [LB149]

SENATOR PIRSCH: Uh-huh. [LB149]

SENATOR MELLO: ...the Ag Committee, says, we don't even want to have these hearings; we think that these are...all of our programs are fine; there's no expenditures we could eliminate whatsoever. Do you see a concern at all or a challenge that may exist if the Legislature is producing reports by committees through a statutory process like this that says this is what the will of the Legislature may be, or this committee, with providing enabling legislation to back that up as well? Do you see that as a potential concern at all or a problem moving forward with more of the legislative operations within the body? [LB149]

SENATOR PIRSCH: I think you're referencing maybe uneven dedication or commitment to taking this on as a substantive kind of "should do" as opposed to a can-do type of thing. [LB149]

SENATOR MELLO: Uh-huh. [LB149]

SENATOR PIRSCH: I don't see that as a problem. Look, at the end of the result, what this does is if we're focusing attention onto our multitudinous, you know, existing programs, what results out of this is a legislative bill and it will have to go through the regular channels. And hopefully that kind of attention to what we've done before in how is it affecting, you know, what should be now will bleed over in the future years. And I don't see that as a bad thing. I think maybe that calls attention. And other committees will just say, maybe we should be doing the same thing. As I think we build on, you know, we just get into this job and, especially in the era of term limits, we don't have maybe a strong understanding of what occurred, you know, eight, ten years ago, and, you know, we build on things, create new programs. I don't know that we...you know, I found that when the LR process was going into effect, you know, at the very least the BCI Committee, which I served on, invited in all kinds of past-funded programs to kind of be put in the spotlight so that, you know, here's what I do. I found it, and speaking personally, I learned a lot just by having them on the blocks. And I think it led to a knowledge among them that they're going to have to, you know, be accounting, maybe called back into the Legislature and account for their, you know, what kind of benefit they're producing for their cost. So yeah, and in any case, I think that's a valid issue, but the end result is it just ends in legislation, you know. So if the idea is unsound, it will go through the normal committee. You either, I guess, believe in the committees or you

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don't believe in the committees and it will hit the floor and sometimes we'll go with them, sometimes we won't. [LB149]

SENATOR MELLO: And kind of a cleanup last question, it's more of just, I would say, operationally. The rules obviously permit this process to occur now. That's how we were able to do LR542,... [LB149]

SENATOR PIRSCH: Sure. [LB149]

SENATOR MELLO: ...was through our legislative rules that allows this to occur. Also our legislative rules allows a standing committee to be able to hold a hearing on an agency budget during session to seek more clarification in funding priorities or spending priorities within the agency. Do you see both of those rules being eliminated then if this were to be adopted into statute? [LB149]

SENATOR PIRSCH: In other words, does it suddenly become mandatory and decrease the...no, I don't. I mean I think the way it's written allows for... [LB149]

SENATOR MELLO: But would you eliminate the...I mean the rules right now are optional, are optional rules for committees if they choose to; if their leadership chooses to do this, it's available for them. Do you see that, if we mandate this through the legislation, would you see us repealing those rules right now and just focus instead on having...following the statute that requires them to meet over the interim? Because you can't...you almost have two, I'd say to some extent you have...they're not...there's not harmony between what our legislative rules would say and if we pass this legislation. [LB149]

SENATOR PIRSCH: Uh-huh. Uh-huh. Well, I'm not sure that it calls for it necessarily. I think there's a lot of flexibility in the way this is written. [LB149]

SENATOR MELLO: Okay. [LB149]

SENATOR PIRSCH: I don't think it's inconsistent with any rules that you have in place. And, you know, I'm certainly open to suggestions if you have particular concerns with how they mesh up. But I think it is a good...I mean the whole underlying thought behind this is that we ought to have a process in place. However, you know, however it may grant a great deal of discretionary power to...and if the committees are not of the mind-set that they'd want to spend a lot of time in this area, I'd want to make sure it doesn't necessarily require that. But I think it's at least a good thing to have on the books to gently remind year after year after year the committees procedurally that they should be thinking about reviewing that which has been done which may be every bit as important or more important as what we do this year or any one year in particular. [LB149]

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SENATOR MELLO: Thank you, Senator Pirsch. [LB149]

SENATOR WIGHTMAN: Thank you, Senator Lathrop. Senator, excuse me, Mello. Senator Lathrop, I think you were next. [LB149]

SENATOR LATHROP: No. No, I'm good. [LB149]

SENATOR WIGHTMAN: You weren't. Okay. Then it must be Senator Campbell that was... [LB149]

SENATOR CAMPBELL: I did want to ask a question. Thank you, Senator Wightman. Senator Pirsch, don't all the committees have the power and ability to do all this right now? [LB149]

SENATOR PIRSCH: Yes. [LB149]

SENATOR CAMPBELL: So what makes this...is it the fact that all the committees have to come and discuss this with the Exec Board? Is that what makes this unique and different... [LB149]

SENATOR PIRSCH: At least... [LB149]

SENATOR CAMPBELL: ...or add to? [LB149]

SENATOR PIRSCH: Oh, sorry to interrupt. [LB149]

SENATOR CAMPBELL: That's okay. [LB149]

SENATOR PIRSCH: Yeah, I'm sorry. I thought you were done. Yeah, at least for one moment in time that the committees will have to, you know, however you decide to address it, at least that that, you know, process will require a thought about that, because this is on the books, that, you know, how should we address. You know, does any...maybe shooting out an e-mail to members, does anybody have any concerns about or would anybody find value in reviewing some of the, you know, agencies' or departments' programs that are occurring such that maybe, you know, we bring them in to account for here's what we do? There's a lot of small agencies and programs that I discovered through that LR process through BCI that came in to account. And you know, each one program isn't too tremendously big, \$3 million here, \$5 million there, but in the aggregate, you know, if you have 20 or 40 of them, you know, you're talking very...you're talking significant amounts of money. So again, this is the language that was used in the LR and if you have...by and large, other than the particular state term "wasteful state government expenditures." If you have any suggestions about cleaning it

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up or changing it to more palatable language, I'd be happy to accommodate. [LB149]

SENATOR CAMPBELL: Thank you. [LB149]

SENATOR PIRSCH: Yeah. [LB149]

SENATOR WIGHTMAN: Thank you, Senator Campbell. I think Senator Krist was next. [LB149]

SENATOR KRIST: A couple of quick comments. [LB149]

SENATOR PIRSCH: Sure. [LB149]

SENATOR KRIST: It seems to me that the specific LR542 that you referred to had a specific intent and what I see here, Senator Pirsch, is that in my mind this circumvents the real process, the LR process, meaning when we have a specific task in mind, we can put the LR in place. And LR542, although general in wording, was very well understood because the Speaker brought the committee Chairs together for a specific purpose, and that was to cut the budget. So the other part of this is chronologically I think we're out of whack again. We always spend a lot of time, supposedly, before the first year of a session coming together and talk, and yet it seems like the second year we come back as though we're refreshed and ready to go and well aware. So I would, if we were going to go ahead with this, I would suggest that it's at the beginning of each year of the Legislature that we take a look at that. However, again, I think it's circumventing the authority process for the elected position of the Speaker. He can bring them together and talk to the committee Chairs about the issues that are there. Again chronologically one other comment: That is, every committee that I know of or at least I'm part of has a requirement to review reports that come from agencies and directorates around, and we take that very seriously on Health and Human Services because those reports, some of them designed by pieces of legislation that we had in the last few years, are holding accountable those agencies to us for a specific report. And it may not happen chronologically before the first of our beginning of our first year of the session. So those would be my general comments and, you know, you can respond to any of them that you care to. I think the overall idea, as we know, worked wonderfully. LR542 worked famously. And I share your enthusiasm and also your opinion. I became much more aware of the legislative appropriations process because of LR542 and also those areas under the jurisdiction of the individual committees. So thank you. [LB149]

SENATOR PIRSCH: Yeah. [LB149]

SENATOR WIGHTMAN: Thank you, Senator Krist. I think Senator Adams. [LB149]

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SENATOR ADAMS: You know, I may withdraw it. My questions have been answered.
[LB149]

SENATOR WIGHTMAN: Okay. Senator Christensen. [LB149]

SENATOR CHRISTENSEN: Thank you, Mr. Chairman. Thank you, Senator. I guess a little bit there in the first when you said in the first session, so I assume you meant every other year of each Legislature. On the year like this one, where we didn't have an elected Speaker or you'd say like Speaker Flood was basically termed out, so would have Flood, in this example, have called this group together to do this, because we...it's prior to session? Or would you want somebody else designated? I guess I just wondered. If it was on the second session of each Legislature, you'd always have a sitting Speaker that may show more interest than somebody that's term limited out.
[LB149]

SENATOR PIRSCH: Uh-huh. [LB149]

SENATOR CHRISTENSEN: Did you foresee that being a problem? [LB149]

SENATOR PIRSCH: Uh-huh. [LB149]

SENATOR CHRISTENSEN: I guess I'm just asking if there's something you would want altered there. [LB149]

SENATOR PIRSCH: Well, and I appreciate that and it has been mentioned by a couple of you. And you know, I'm pretty flexible in when you, you know...that, to me, doesn't seem like a,... [LB149]

SENATOR CHRISTENSEN: The minor details. [LB149]

SENATOR PIRSCH: ...yeah,... [LB149]

SENATOR CHRISTENSEN: Okay. [LB149]

SENATOR PIRSCH: ...key part of this. So I'd be very flexible in saying whatever point in the process it seems to make sense to you guys would be very...and gals, I'd be very flexible in that respect. But you know, I just think that the more important part is, and this isn't an indictment that we don't have quality people. I believe we have very good, quality people, quality Speaker. You know, I've just been very impressed by, you know, good people. You know, I still think that we need to have good process required with good people. And who knows, you know, this legislation we're writing isn't for necessarily this year or next year. It might be 10, 20, 40 years down the line. And so you know, it's just a way to procedurally ensure that good things happen like that.

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[LB149]

SENATOR CHRISTENSEN: Thank you. [LB149]

SENATOR WIGHTMAN: Thank you, Senator Christensen. Senator Chambers. [LB149]

SENATOR CHAMBERS: Senator Pirsch. [LB149]

SENATOR PIRSCH: Yes. [LB149]

SENATOR CHAMBERS: Did somebody bring this bill to you or this idea? [LB149]

SENATOR PIRSCH: I thought it up with just this noggin myself. [LB149]

SENATOR CHAMBERS: Then I have to blame one of my colleagues. You say that this committee shall collaborate with the Governor and these agencies. [LB149]

SENATOR PIRSCH: Yeah. [LB149]

SENATOR CHAMBERS: By statute, you can't make the Governor collaborate with the Legislature. So why did you say that when he's an independent branch of government? [LB149]

SENATOR PIRSCH: Well, you bring up a great point and... [LB149]

SENATOR CHAMBERS: I always do. (Laughter) [LB149]

SENATOR PIRSCH: ...and to be quite honest, when I was reading over the language, I thought that the more...the more I come with innovative, totally new language to this committee, the more questions arise as to what it does and whatnot. [LB149]

SENATOR CHAMBERS: But so I won't take too much time, because we've got another bill... [LB149]

SENATOR PIRSCH: So the long and the short of it is this is from the LR. I copied and pasted it exactly just so that I could say, except for that one statement about expenditures... [LB149]

SENATOR CHAMBERS: But look, if the LR is working, why do you need to put this in statute anyway? [LB149]

SENATOR PIRSCH: Well, the LR was a one-time shot. It was just for the one year that there was a downturn in 2010. I thought it was good for that year and I thought...

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[LB149]

SENATOR CHAMBERS: Couldn't it be done? Couldn't that process be used again by the Legislature instead of freezing it in statute for things that cannot be enforced anyway? [LB149]

SENATOR PIRSCH: You're saying if in fact there's a down year, can't we go to another LR similar to that, and the answer is yes. But I think it's also a good idea for the good years and maybe even more important for the good years. Because in the good years, if we're flush with cash, we don't go looking towards the past to say did that make sense or not. [LB149]

SENATOR CHAMBERS: I will even let a person know my view. I think this is very poor legislation. I think the idea is not good. I think parts of it are unenforceable. And it just ought not to be done, just so you're aware of mine, and there's nothing you could say... [LB149]

SENATOR PIRSCH: I know. Yeah. [LB149]

SENATOR CHAMBERS: ...to persuade me to say that the this committee representing the Legislature shall collaborate with the Governor. [LB149]

SENATOR PIRSCH: Well, I thank you for at least, you know, letting me know where you're at. [LB149]

SENATOR WIGHTMAN: Thank you, Senator Chambers. Anyone else have any questions? If not, thank you, Senator Pirsch. [LB149]

SENATOR PIRSCH: Okay. Thank you. [LB149]

SENATOR WIGHTMAN: Do we have any opponents to this bill? Sounds like we might have some. Anybody in a neutral capacity? If not, we'll close on LB149 and take up LR20, Senator Lathrop. [LB149]

SENATOR LATHROP: Good afternoon, Chairman Wightman and members of the Exec Board. My name is Steve Lathrop, State Senator from District 12, and I'm here today to introduce LR20. The purpose of this resolution is to extend what has become known as the BSDC Committee. That committee was initially put together, a special investigative committee with particular powers, was put together in the wake of the crisis at BSDC. That crisis led to the Department of Justice coming in and concluding that the state of Nebraska was violating the civil rights of those who are residents of Beatrice State Developmental Center. It also resulted in the decertification of BSDC, which led to the state paying for the cost of running that institution for two years, probably about a \$50

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million to \$70 million loss in additional revenue. And that central issue that we unearthed when we did our work in that committee was that there are...there were problems with the culture. There were problems with some of the employment practices. And the Department of Justice I think narrowed it down to the central issue being too much mandatory overtime. And so today we have done a report a few years back. A number of you were on or are currently on the committee. And each year I've come back and asked for authority to reconstitute the committee. I honestly didn't expect it to be reconstituted again this year but I think it's necessary and for this reason. The consent decree that was entered in 2008 probably should have been satisfied within two years, and we're still not where the Department of Justice...where we agreed to get in our agreement with the Department of Justice, and I think that requires oversight. Again, it's the mandatory, primarily but not exclusively, mandatory overtime issue, which is sort of central to the deteriorating culture at BSDC in the first place. In another way, and not to diminish the great work of the Health Committee, they are working on child welfare issues and that's an enormous undertaking. And I've offered to sort of continue to watch the developmental disability issues, monitor those, have meetings. When we get together, we invite the Health Committee so that they can sort of get up to speed and transition into taking over full responsibility for the developmental disability issues. And I think there's a benefit to the Legislature in having this committee continue. [LR20]

SENATOR WIGHTMAN: Thank you, Senator Lathrop. Let's see, I have Senator Krist and then Senator Chambers. [LR20]

SENATOR KRIST: I don't like to speak for other people, so I'll speak for myself. I want to thank you for all the work you've done on this committee. I know how important it is to you. It is important to me. I have an ancestor that was part of what was BSDC in a day that I would not be proud to call myself a representative if I would have allowed that to happen. I think we've made some changes. I think we need to continue to make some changes. And you do a great job advocating for those that cannot speak for themselves and I'm proud to be part of it. So there is no question in my mind, given all the legal reason that you just gave us but just in the right thing to do, that it is the right thing to do. Thank you, Senator Lathrop. [LR20]

SENATOR LATHROP: Thank you. [LR20]

SENATOR WIGHTMAN: Thank you, Senator Krist. Senator Chambers. [LR20]

SENATOR CHAMBERS: And Senator Krist did speak for me to a great extent, but I'm not a part of the committee so on that part of it I couldn't. But I'm going to look at something narrower and more practical. Should there be the necessity of a legislative response, because the state is kind of dragging its feet, we will not respond in a crisis mode to try to throw something together. We have something operational, people who understand what the issues are, so I see no need to derail a train that takes us where

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we need to go. So I also am appreciative that you're bringing it. [LR20]

SENATOR LATHROP: Thank you. [LR20]

SENATOR WIGHTMAN: Thank you, Senator Chambers. Senator Adams. [LR20]

SENATOR ADAMS: Well, I'm not going to take up much time because these two gentlemen have echoed what I was going to say, but... [LR20]

SENATOR CHAMBERS: No, one gentleman and Ernie Chambers. [LR20]

SENATOR ADAMS: All right, (laughter) for the record. [LR20]

SENATOR KRIST: Yeah, (inaudible). [LR20]

SENATOR ADAMS: Senator Lathrop, I think that you guys have done great work with this, and you in particular. And this, to me, is what an LR ought to be used for. You have identified something specific that needs to be targeted. It still falls within the jurisdiction of your committee, Senator Campbell, but you do have a load on your shoulders and we have a unique problem here that needed to be addressed. [LR20]

SENATOR CAMPBELL: Right. [LR20]

SENATOR ADAMS: And it wasn't being addressed and now we've done that. And you've already answered, Senator, my question about why we need to continue it and where we're at, and I'm perfectly comfortable with you saying we need to keep our eye on this. [LR20]

SENATOR WIGHTMAN: Thank you, Senator Adams. [LR20]

SENATOR CAMPBELL: I just want to say Senator Lathrop and I, we at least speak once every legislative term about this to make sure that we should continue the committee or to pass this off to the Health Committee. And I certainly concur with Senator Lathrop. I mean having them watch the federal action here is extremely important. And Senator Lathrop is always kind, the Health Committee has gone to all the hearings as joint, so we will be ready at the point when the time comes. But this is a great, in the use of a word, Senator Chambers, collaborative effort between an LR committee and a standing committee, and that's another point that I think is really...should be stressed, is the emphasis on both of us working together. [LR20]

SENATOR WIGHTMAN: Thank you, Senator Campbell. Now the Chair would also like to thank you for the work you've done, and I think you've done a tremendous amount of work over the last several years, so... [LR20]

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SENATOR KARPISEK: Thank you, Senator Wightman. I echo everything. I've been on the committee. One reason I wanted to get on this Exec Board was so I could get myself on that committee. Also, working in...well, (laugh)...also working in Beatrice, I know that we have done a lot of good and I don't believe that BSDC would be open today had it not been for that committee. Also, again working there, I know there are still many challenges and I hear about them a lot. I know that some of it is just workers who are going to be the way they are. But there are still a great many issues that need to be dealt with. We can do a better job and I think that we can have more people there, living there, to do what we...or what they're supposed to be doing there. So thank you. I absolutely support it and I hope I can stay on the committee. Thank you. [LR20]

SENATOR WIGHTMAN: Thank you, Senator Karpisek. [LR20]

SENATOR LATHROP: Thanks. [LR20]

SENATOR WIGHTMAN: Senator Christensen, do you have your hand up? [LR20]

SENATOR CHRISTENSEN: No, I didn't. [LR20]

SENATOR WIGHTMAN: Oh, okay. [LR20]

SENATOR CHRISTENSEN: But thank you. [LR20]

SENATOR LATHROP: You know, I want to make one last comment, if I can. I appreciate all the nice remarks. You know, one of the...we have staff, each of our offices have staff and they, to varying degrees, make us look good at some of the things we do. And in my office, I got a guy, my legislative assistant, Doug Koebernick, and I can tell you, people from across the state who have children who are developmentally disabled or adult children who are developmentally disabled call Doug Koebernick and he is sort of the committee's eyes and ears. And it's hard, sometimes we don't express our appreciation, but understand what that committee does. We lean on Doug Koebernick a lot and he does a lot of great work and he answers a lot of questions and interfaces with Jodi Fenner, as does the Ombudsman's Office. And a lot of times we're in here talking about the Ombudsman's Office and what their role should be, and there are a lot of issues and that has become a very, very important resource. They're very skilled in that office and they do a lot of great work for families that have developmental disabilities trying to get what should come to them in the process but turns into a struggle. And so I appreciate your remarks. I appreciate your support, but I also want you to know that a lot of what we do is the work of Doug Koebernick and the Ombudsman's Office, so... [LR20]

SENATOR WIGHTMAN: Thank you. Yes. Excuse me, Senator. [LR20]

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SENATOR KRIST: Seconds? I have to...I'm not going to take very much time, but that Ombudsman's Office for me has been one of the greatest tools since I've been here in returning good words or words to constituents that I had really no experience, even though I have a special needs person in my life, that I could never do it. Secondly, thankfully to Senator Campbell and issues last year, we have a lady in there, Julie Rogers, who's acting as the Inspector General who is weighing in on some really heavy issues. And it's because of people like Doug and Julie and Marshall... [LR20]

SENATOR LATHROP: Right. [LR20]

SENATOR KRIST: ...in keeping us on track. And that is our legislative office. We created it and we have to look out for it because it's doing great work. So I just want to get that on the record. [LR20]

SENATOR CHAMBERS: And I was instrumental in its creation. [LR20]

SENATOR KRIST: Thank you, Senator. [LR20]

SENATOR CHAMBERS: I just want you to know that. But by people not having been here for a while, they're not aware of how things came to be. It was somewhat of a fight but it was done. [LR20]

SENATOR KRIST: Thank you, Senator. [LR20]

SENATOR WIGHTMAN: Thank you. Anything else? [LR20]

SENATOR LATHROP: I'm done. That's it for me. [LR20]

SENATOR WIGHTMAN: Thank you. Is there anyone else present who wants to speak in favor of LR20? If not, is there...we do have a letter in support from Julie Dake Abel, the executive director of NAPE and labor, Local 61. (Exhibit 2) I'll read that. "Chairman Wightman and members of the Executive Board, I am writing on behalf of the Nebraska Association of Public Employees/AFSCME Local 61 to express our support of LR20. The reappointment and continuation of the Developmental Disabilities Special Investigative Committee is a vital piece in the ongoing efforts to fix the problems at the Beatrice State Developmental Center. As you are certainly aware, progress has been made at BSDC, but there are still issues that need to be addressed. Ongoing oversight and attention is necessary. For example, we feel that overtime is still a concern. There are certainly other concerns, due to the fact that BSDC is still under the oversight of the Department of Justice, and there are continuing and ongoing evaluations taking place there. The Department of Justice has yet to specify when this oversight will end. If the Department of Justice still sees BSDC as a facility that requires monitoring, the state of

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Nebraska should also continue to participate in this process as well to help ensure adequate and consistent care is taking place. Again, we encourage you to support LR20 and the continuation of the Developmental Disabilities Special Investigative Committee, and we thank Senator Lathrop for bringing this resolution forward." Is there anybody else still want to speak in support? Is there anyone that wants to speak in opposition? Is there anyone present that would speak in a neutral capacity? If not, the hearing is closed. That is the last bill or resolution on our schedule, so we will be closed. Thank you. We will be adjourned. [LR20]