

**ONE HUNDRED FIFTH LEGISLATURE - FIRST SESSION - 2017**  
**COMMITTEE STATEMENT**  
**LB145**

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**Hearing Date:** Thursday March 16, 2017  
**Committee On:** Judiciary  
**Introducer:** Hansen  
**One Liner:** Provide for a hearing to determine financial ability to pay fines and costs and traffic citations and provide for community service

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**

<b>Aye:</b>	7	Senators Baker, Chambers, Ebke, Hansen, Krist, Morfeld, Pansing Brooks
<b>Nay:</b>	1	Senator Halloran
<b>Absent:</b>		
<b>Present Not Voting:</b>		

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**Verbal Testimony:**

**Proponents:**

Senator Matt Hansen  
Amy Miller  
Joe Nigro  
  
Fran Kaye

**Representing:**

Introducer  
ACLU Nebraska  
Lancaster County Public Defender & Nebraska Criminal  
Defense Attorneys Association  
self

**Opponents:**

**Representing:**

**Neutral:**

Elaine Menzel

**Representing:**

Nebraska Association of County Officials

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**Summary of purpose and/or changes:**

LB 145 would require a hearing to ascertain an individual's ability to pay fines levied due to an infraction, and provide an alternative penalty of community service.

Section 1- Provides that the court, either at sentencing or in a separate hearing, shall provide the offender with an opportunity to testify as to their inability to pay fines or costs associated with the judgement against them. The court will then make a determination of ability to pay and either: order payment and incarcerate the offender until such fines are paid, provide for fines to be paid through an installment plan, or provide for community service in lieu of fines; determine the offender is unable to pay and provide for sentencing without fines or provide for community service.

An order from the court discharging fines or costs shall contain written findings of the offender's inability to pay and accompany the judgement entry.

Section 2- Allows magistrates to issue orders for payment of fines through installments.

Section 3- Sets a community service hour sentencing limit for infractions: not less than 4 hours, but not more than twenty hours.

Section 4- Harmonizes provisions regarding fines levied to include ability to pay.

Section 5- Provides that the court, when dealing with an offender arrested for failure to pay fines or costs, shall provide the offender with an opportunity to testify as to their inability to pay fines or costs associated with the judgement against

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them. The court will then make a determination of ability to pay and either: order payment and incarcerate the offender until such fines are paid, provide for fines to be paid through an installment plan, or provide for community service in lieu of fines; determine the offender is unable to pay and provide for sentencing without fines or provide for community service. An order from the court discharging fines or costs shall contain written findings of the offender's inability to pay and accompany the judgement entry.

Section 6- Provides that a person, who has yet to be arrested for failure to pay fines or costs but owes them and believes themselves unable to pay, can request a hearing to testify as to their inability to pay fines or costs associated with the judgement against them. The person will be immune from arrest for these fines until a hearing can be held.

The court will then make a determination of ability to pay and either: deny the person's request for relief and order payment or provide for community service in lieu of fines; determine the offender is unable to pay and discharge the fines, provide for installment payments of the fines, or provide for community service.

An order from the court discharging fines or costs shall contain written findings of the offender's inability to pay and accompany the judgement entry.

Section 7- Any Nebraska resident who is unable to comply with a traffic citation shall be subject to license revocation.

If a person believes they cannot comply with the citation terms, they may request a hearing to determine ability to pay within thirty working days of the citation. The court will then make a determination of ability to pay and either: order payment and incarcerate the offender until such fines are paid, provide for fines to be paid through an installment plan, or provide for community service in lieu of fines; determine the offender is unable to pay and provide for sentencing without fines or provide for community service.

If the person cannot show proof within twenty days of the DMV's notice of license revocation that the traffic citation has been disposed of or complied with, the license shall be suspended until compliance or discharge is proven.

Defines agency and community service for the purposes of the bill.

Section 8- Allows an individual thirty working days before the DMV is notified of a traffic infraction related judgment.

Section 9- Repeals original sections.

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**Explanation of amendments:**

AM 828 would allow a judge to determine indecency for purposes of the act at any hearing the accused is attending rather than holding an independent hearing regarding ability to pay.

It would go on to add the definition of a community correctional facility or program for purposes of the act.

Finally, AM 828 makes technical changes fixing plain language phrasing, harmonizing provisions, and specifying effective dates.

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Laura Ebke, Chairperson