

Transcript Prepared by Clerk of the Legislature Transcribers Office

Judiciary Committee February 3, 2023

Rough Draft

DeBOER: Good afternoon and welcome to the Judiciary Committee. My name is Senator Wendy DeBoer. I am the Vice Chair of this committee and I represent Legislative District 10 in northwest Omaha. We will start off by having committee members and staff introduce themselves, starting on my right with Senator Ibach.

IBACH: Good afternoon. I'm Senator Teresa Ibach from District 44, which is southwest Nebraska, eight counties.

MEGAN KIELTY: Good afternoon. Megan Kielty, legal counsel.

ANGENITA PIERRE-LOUIS: Angenita Pierre-Louis, committee clerk.

BLOOD: Good afternoon. Senator Carol Blood, District 3, which is western Bellevue and southeastern Papillion, Nebraska.

HOLDCROFT: Rick Holdcroft, District 36, west and south Sarpy County.

DeKAY: Barry DeKay, District 40, includes Cedar, Knox, Holt, Antelope, northern part of Pierce, and most of Dixon County.

DeBOER: Also assisting us are our committee pages, Logan Brtek, Brtek from Norfolk, who is a political science and criminology major at UNL and Isabel Kolb from Omaha, who is a political science and pre-law major at UNL. This afternoon, we will be hearing five bills and we'll be taking them up in the order listed outside the room. On the tables in the back of the room, you will find blue testifier sheets. If you're planning to testify today, please fill out one and hand it to the pages when you come up. This will help us keep an accurate record of the hearing. If you do not wish to testify but would like to record your presence at the hearing, please fill out the gold sheet in the back of the room. Also, I would note that the Legislature's policy is that all letters for the record must be received by the committee by noon the day prior to the hearing. Any handouts submitted by testifiers will also be included as part of the record as exhibits. We would ask if you have any handouts that you please bring ten copies and give them to the pages. If you need additional copies, the pages will be able to help provide them. Testimony for each bill will begin with the introducer's opening statement. After the opening statement, we will hear from any supporters of the bill then from those in opposition, followed by those speaking in a neutral capacity. The introducer of the bill will then be given the opportunity to make closing statements if they wish to do so. We ask that you begin your testimony by giving us your first and last name, and please also spell

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them for the record. We'll be using a three-minute light system today. When you begin your testimony, the light on the table will turn green. The yellow light is your one-minute warning and when the red light comes on, we will ask you to wrap up your final thoughts. I would like to remind everyone, including senators, to please turn off your cell phones or put them on vibrate. With that, we will begin today's hearing with LB81 and Senator Aguilar.

AGUILAR: Thank you, Chairman DeBoer.

DeBOER: Welcome to your Judiciary Committee.

AGUILAR: My name is Ray Aguilar, spelled R-a-y A-g-u-i-l-a-r, and I represent the 35th Legislative District, which is made up of most of Grand Island and Hall County. I am here speaking to you today not only as a state senator, but as a lifelong resident of the Grand Island area. Today I will introduce LB81, which asks to increase the number of county judges in Buffalo and Hall County. You will be hearing testifiers who will present plenty of facts and figures for you to digest. What these facts and figures will tell you is that we have a significant need for help in central Nebraska, especially when it comes to the juvenile justice process. More importantly, you will hear about young people who go through the juvenile justice system. Many come from disadvantaged backgrounds. Their voices deserve to be heard and every case needs to be considered carefully, not rushed through the system like products off a factory assembly line. These young people have made mistakes and this process will many times be an important turning point in determining which direction their lives will go from here. I have met and talked with many of our local officials who work in the juvenile justice process. We have many dedicated officials who sincerely want to see the best outcomes. They're asking for help so that we can give each case the proper attention it deserves. In my time as a state senator, I have helped oversee the spending of millions and millions of dollars of taxpayer money. I voted to approve spending plans for office buildings, highways, sports complexes, railroads, and various other infrastructure projects. But to me, nothing is more investing in our future like taking care of our youth. The well-being of our future generations is my highest priority as a state senator. Our juvenile justice system has got to become one of the top priorities of the state. With this goal in mind, I introduced LB81 to add an additional county judge to District 9 and I would highly recommend that the primary location of that judge should be in Hall County. I look forward to working with you going forward to ensure that we help ease

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these burdens and create the best possible outcome for all. The testifiers that will follow will outline some of the specifics and will also hopefully be able to answer any of the questions. With that, I think the committee will-- thank the committee for taking the time to hear the bill and I will be happy to try to answer any questions you may have.

DeBOER: Are there any questions for Senator Aguilar? Senator Blood.

BLOOD: Thank you, Senator DeBoer. I just want to get this on record. I already know the answer. So, Senator Aguilar, have you had any pushback in reference to the fact that counties have to pay for the staff beyond the two that are mentioned in the fiscal note?

AGUILAR: Not at all. I've had conversations with several county board members and they all recognize the need that we have in our county and are looking forward to the process being completed.

BLOOD: I appreciate that. I just want to make sure people understand that sometimes we can't avoid passing down unfunded mandates, but when we do, it's always great when we have the support of the counties. Thank you.

AGUILAR: Thank you.

DeBOER: Are there any other questions? I don't see any. We'll have our first proponent testifier.

AGUILAR: Thank you, Chairman DeBoer.

ARTHUR WETZEL: Members of the committee, senators, my name is Judge Arthur S. Wetzel. It's A-r-t-h-u-r W-e-t-z-e-l and I am one of the county judges of the 9th Judicial District and I'm here requesting your support for LB81. Senator Aguilar, I couldn't say it better myself. The needs of the juveniles in Hall County, Nebraska, are not being met the way that they need to be. We have an overwhelming juvenile population that unfortunately continues to grow and the depth of their crimes and behaviors continue to grow. I want to talk just basically. We had filed last year in Hall County alone-- and I'm going to focus most of my testimony on Hall County, but we had a total, including all cases, of about 11,000 cases filed last year in Hall County alone. The focus of today, I want to talk about the juvenile matters because that's where our most pressing need is. We are hopeful that if LB81 does in fact pass, that the new judge can do-- I don't want to say exclusively, but primarily juvenile work to help us

provide a better service to the juveniles of Hall County. I just want to talk briefly about some numbers. When I first went to Senator Aguilar and to the Court Administrator's Office, my push was to attempt to get a separate juvenile court in Hall County. And fortunately, our population is not quite there. It doesn't meet the numbers and so it would require a constitutional amendment to encompass that. So we then decided that the best way would be to see if we could get additional judicial help. In 2021, we had 506 cases in juvenile court. This year we had, I believe it was 589. If you compare that to some of the other counties, Sarpy had 380, Lancaster had 656. Lancaster has four separate juvenile judges. Sarpy County has two separate juvenile judges. Those numbers alone, I think, justify the need that we have. We have been fortunate in that for the last year, approximately, we've been getting some assistance in that the, the juvenile judges of Lancaster County have come out to Grand Island and helped us. We now have some visiting judges coming in and helping us, as well as one of the judges from Kearney comes in one day a week. We would obviously love to have a juvenile court set up where we can spend more time. Unfortunately, I realize that's not realistic. On behalf of the judges in the 9th Judicial District, we're hoping you will, in fact, support LB81 and I'll be happy to take any questions.

DeBOER: All right. Thank you so much. Are there any questions for this testifier? All right, thank you for being here, Judge.

ARTHUR WETZEL: All right, thank you.

DeBOER: I don't see any today. We'll have our next proponent testifier.

COREY STEEL: Thank you, Vice Chair DeBoer and members of the Judiciary Committee. My name is Corey Steel, C-o-r-e-y S-t-e-e-l, and I am the State Court Administrator for the Administrative Office of the Courts and Probation testifying in support of LB81. We would like to also thank Senator Aguilar for the introduction of this legislation. I also want to-- special thanks to the judges in Judicial District 9 for their support and their continued discussion regarding their need and having that discussion with me. And then also like to send a thank you out to the judges that have, over the past six to seven months, been helping out District Nine with their caseload. I want to touch on three things that is getting handing out-- handed out to you. I have three attachments to provide you some context as far as numbers. As Judge Wetzel talked about the numbers and the growing numbers that we see in Judicial District Nine, predominantly the increase in Hall

Counties. As Judge Wetzel talked about, in, in 2022, they were having 600 juvenile cases just in Hall County alone. And again, to put that in context, as Judge Hall [SIC] talked about, this is a higher juvenile caseload than we see in Sarpy County with two separate juvenile court judges. In Hall County, we have two county court judges that not only handle these 600 cases, but then they're handling over 10,000 misdemeanor cases on top of that. So you can see why we've been asking judges to come in; the judge from, from Buffalo County, the Lancaster, separate juvenile court judges. That increase is continuing. I've also supplied you on the second-- or excuse me, the third page, a running total. So you can see since fiscal year 2011 to fiscal year 2020 where the, the need kind of ebbs and flows, but it's continuing to stay high. The demographics of Hall County have changed, the continued growth of Hall County and the need for services there for not only juvenile but the, the court as well. Attachment B goes to the weighted caseload report, which shows our judicial need. And that is over time as well, where it continues to show that we are well under-represented in judicial need in Hall County itself. Attachment C is a letter that was submitted by the Judicial Resources Commission, by Justice Stephanie Stacy at their annual meeting in December. This highlights that the Judicial Resources Commission has also reviewed all of this data and made a recommendation to the speaker-- Speaker Hilgers at the time-- that the commission unanimously recommends that the Legislature consider adding a new county judgeship in the 9th Judicial District with the primary office location in Hall County. We feel that the need is there, the data is there to show the need. And we know based on Hall County and the projected growth over the past several years, it's going to continue. So with that, I'll open it up to any questions the committee may have.

DeBOER: Are there any questions for this testifier? Senator DeKay.

DeKAY: Thank you, Senator DeBoer. Mr. Steel, with this, is, is there any additional staff that will be coming-- that will be needed coming along with the judges?

COREY STEEL: Yes. So if you take a look at the fiscal note, it's outlined in the fiscal note.

DeKAY: OK.

COREY STEEL: It's not only the judge, but then we need a courtroom clerk to be in the courtroom with that judge. And then we're keeping a very close eye on our county court clerk's office to determine if we

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can continue to manage. When you bring in a full-time nother judge, that just adds. But at this time, we-- I think we put in a couple of positions within our fiscal note so it is in there.

DeKAY: Obviously, the county commissioners are aware of this and are good to go with it going forward?

COREY STEEL: Yes, I've had several conversations with the county commissioners and I believe the county attorney is here from Hall County that-- and, and he could be more specific. But I have been engaged with conversations with county commissioner, with Marty Klein, the, the county attorney, the judges, been engaged in some video meetings with some commissioners regarding what would be needed then on the county side for added space for courtroom space.

DeKAY: OK. Thank you.

COREY STEEL: You're welcome.

DeBOER: Thank you, Senator DeKay. Other questions? I do. Just for the kind of good of the, the committee-- there's a lot of new members here. Although you're a separate branch of government, we do pay for all the judicial salaries, the staffing, all of those things come through the Legislature. So when you-- you can't go hire a new judge or a new whatever without getting that-- those funds through us, is that right?

COREY STEEL: That's correct. So-- and not just the funds. The Legislature actually has to set-- it's by statute-- the number of judges. And so that's why in this piece of legislation, you see it changes the number of judgeships in District 9 and adds one. So the Legislature must pass a bill increasing the judge, which in turn then would be the funding mechanism for that.

DeBOER: And if we wanted to increase, decrease anything like that, that all has to go through those statutory provisions in terms of the number of judges and that sort of thing?

COREY STEEL: Correct.

DeBOER: And, and so then one of the functions that the Legislature has is to make sure that they have enough sort of other employees to help them. Obviously, you all can ask for that and then we make sure that you have what you need there. We look at the salaries and we have a structure for how we do the salaries and all that sort of thing.

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COREY STEEL: Correct. So the administrative office oversees all of the county court personnel that are within the county court clerk's office. Those are all state employees and that's why you'll see a couple of positions within the fiscal note for that, as we know that growth will happen as well. We have an internal, through the judicial branch, salary structure for those positions.

DeBOER: Perfect. Any other questions? Senator Holdcroft.

HOLDCROFT: As long as you're here, the, the county, the county courts are funded by the state. The district courts are funded by the county, is that correct?

COREY STEEL: Not quite in that manner. Let me-- why don't I do a quick overview of that? So all judges across the state, our state, they are funded through the judicial branch. So every judge, every tier of judge from Supreme Court, Court of Appeals, district court, county court and separate juvenile court, the judges themselves are all paid through the state. On the district court and separate juvenile court, the court reporting personnel that are tied to that judge are also state employees. Any staff within the district and the separate juvenile court in their judicial administration office are county employees. The clerk of the district court currently is an elected official or an ex-officio, which there will be another bill where we'll discuss that further, those are county-funded positions. The county court clerk magistrate's office, the clerk of the county court is all state funded.

HOLDCROFT: So who's getting paid better now between the state and the county?

COREY STEEL: Depends where you are, Senator, in which county you are in.

HOLDCROFT: Thank you.

DeBOER: Other questions? I don't see any. Thank you for being here.

COREY STEEL: Thank you.

DeBOER: Next proponent testifier, please. Next person.

JASON GRAMS: Thank you, Vice Chair DeBoer, members of committee. My name is Jason Grams, J-a-s-o-n G-r-a-m-s. I'm the president of the Nebraska State Bar Association and I'm here today to testify on behalf

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of the state bar in support LB81, which would increase the number of county judges in the 9th Judicial District from four to five. Providing an adequate level of judicial resources is essential to effectively administering justice and providing meaningful access to the citizens of Nebraska. The most recent weighted caseload report shows the 9th Judicial District County Court, which is Hall and Buffalo Counties, needs 4.43 judges, but has only four. In the 9th Judicial District, the increase in caseload is primarily driven by an increase in juvenile cases. The annual caseload reports produced by the Administrative Office of the Courts for Fiscal Year 2022 show that the 9th Judicial District, which is Buffalo and Hall Counties, had 606 juvenile cases filed. For comparison purposes, Sarpy County, which has three times the population and its own separate juvenile court, had 626 juvenile cases filed in the same time period. Many of these new cases will take from 18 months to two years to resolve, which compounds the workload of the county judges in the 9th Judicial District. One of the consequences of this shortfall in judicial resources is a delay in court processing. The delay of justice has real outcomes for Nebraska's children and families in the 9th Judicial District. Research by the Justice Policy Institute indicates that out-of-home placement has a profoundly negative impact on young people's mental and physical well-being and negatively impacts their educational and employment outcomes. The longer they are out of an in-home placement, the more negative the impact. Court delay also creates a considerable cost to counties and to the state. Court delay means that youth in our child welfare system will be out of home placements longer. Youth in our juvenile justice system will be in detention longer and DHHS caseload will be greater. On behalf of the legal profession, we thank the committee for their attention to this important issue and encourage all of you to support LB81.

DeBOER: All right, thank you. Are there any questions from the committee? I don't see any.

JASON GRAMS: Thank you.

DeBOER: We'll go with the next proponent.

MARTY KLEIN: Forgive the use of cellphone. I wrote my notes on it so that's the only reason.

DeBOER: That's totally fine.

MARTY KLEIN: Good afternoon. My name is Marty Klein, M-a-r-t-y K-l-e-i-n. I am the Hall County Attorney there in Hall County, Nebraska. I want to touch on a couple of things tangentially to the numbers and that is Hall County is committed to youth. We just hired our, our-- people have asked about our county board. Our county board has just approved and hired a JDAI coordinator. That coordinator is-- the vision that we have for that coordinator is to keep youth out of detention and the vision is to prevent youth from getting into detention in first place. We've-- the delay that was just spoken about by our last speaker is really important. We, we have youth that can't get in to get adjudicated, to get services because of the delay of our docket. We've got so many, so many kids on our docket. I will also say that in-- and what we're facing in Hall County, we've got youth that are, are acting more violently and we need to be able to serve them in a manner more, more quickly, more acutely, spending time with them. The, the juvenile court judges that came out of Lancaster County, it was really refreshing to go in and practice in front of them because they have a different way of doing things there. And they are so-- and I actually came into Lancaster County in, in anticipation of all this and sat and watched what they do in their judicial court-- juvenile court, excuse me, and found that they were able to spend more time and make more connection with those juveniles. Like, I don't have research that tells you that that's a great thing. I can't see how that's a bad thing. So the last thing that I want to talk about is our numbers are, I believe, are very clear on their own, but they're actually deflated a little bit in the fact that my office traditionally-- for filing of juvenile delinquent case is you file a case, you get a case-- each, each incident gets a case. And so if everybody filed the same way, you'd have 17 crimes of violence and you'd have 17 cases. If we have four cases that all come in at about the same time, my office had packaged those all together in one court filing. So where other counties count four case files on those, my county oftentimes would have one case file. So those numbers that you have are, are, are the bare minimum. Those, those are-- those numbers are probably a little bit worse than what you're seeing. So I would strongly encourage this committee to forward this bill under the floor, however the procedure is. I feel strongly that our county could use the help to serve our youth to help better outcomes for our youth. We talked about youth being placed out of home. It's almost as detrimental for youth to be placed out of their home school district and we find that a lot. So Hall County is committed, our county commissioners are committed to this-- to the prospect of this additional judge position and the youth in Hall County. Thank you for your time.

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DeBOER: Are there any questions for this testifier? Senator DeKay.

DeKAY: Thank you, Senator DeBoer. What happens to those cases? Are juveniles, while they're awaiting their time in front of the courts and the judges, are they in a counseling program or how does that work for them?

MARTY KLEIN: Well, it depends on whether the juvenile and/or their parent wants to avail themselves of what they call pre-adjudication services. So from the point that they are given their rights and got-- they get an attorney, to the point where they come in and either have a trial or admit to a case, that point in time, we can't order them to do stuff without some consent of the parents. So many of them-- parents are, like, yeah, I'll take any help we can get. And we do start to ramp some of those services up at that point in time. The judge will order pre-adjudication services that could include counseling, electronic, electronic monitoring, that sort of thing. So we try to onboard some of those services as quickly as possible. For those who don't want to take advantage of that, that could be a two-- well, it could be a four-to-six-week gap before we're seeing that child again or that juvenile again. All during that time, they're not receiving any additional help.

DeKAY: Thank you.

MARTY KLEIN: Thank you, Senator.

DeBOER: Thank you. Senator DeKay. Other questions? All right, I don't see any. And with that, I'll hand it back over to Chair Justin Wayne who has joined us.

WAYNE: Thank you.

DeBOER: Senator Wayne.

MARTY KLEIN: Thank you, ladies and gentlemen.

WAYNE: Any other proponents? This is the one time you get to testify. Are you sure you want to use it on this one? Yeah, this is-- not, this is it. You can't justify anymore today. Welcome.

SPIKE EICKHOLT: Good afternoon, Chair Wayne and members of the committee. My name is Spike Eickholt, S-p-i-k-e, last name is E-i-c-k-h-o-l-t, appearing on behalf of the Nebraska Criminal Defense Attorney Association in support of LB81. We are a member organization.

We have about 370 members who practice criminal defense across the state. When we did our bill review earlier this year, the-- our members Gerry Piccolo, people in his office-- Gerry Piccolo is the elected Hall County Public Defender and others who practice in Hall and Buffalo County wanted to support this bill because as you heard already, there is a need to have an additional judge in that district. I'm not going to duplicate or repeat what other people have said, but I just wanted to elevate one thing. You heard some people talk about juvenile court, county court. In Nebraska, there is a separate juvenile court in, in Douglas, Sarpy and Lancaster County. But in the other counties, the county court judge sits as the juvenile court. One thing that you've probably heard people talk about, the juvenile court acts a little differently than the county court does. In other words, when you hear these case numbers and you're comparing them to the case numbers that are filed in county court, criminal case numbers and so on, it's different in the juvenile setting. In other words, if the county court is hearing, like, law violations for adults, the DUIs, trespass, the shoplift, those are usually just one or two court hearings where they show up to court, plead, get a fine and that's done. But when a court is sitting as a juvenile court, it's a little different. The juvenile court is operating in the best interests of the youth. There's a lot more hearings where the, the juvenile is in front of the judge. The judge is doing much more intensive analysis of that person that's in front of them. And the juvenile court just spends a lot more court time, more court resources to do what's ever in the best interest of the youth. And it's not just sending them off with a fine. It's not just sending them off with a lecture. It's making sure they get treatment. The juvenile court is the jurisdiction for all sorts of things that youth may be-- become system involved. It can be for law violations, it can be for truancy, for missing school, it can be for a variety of things. And I just wanted to elevate that as well. So if I-- I'll answer any questions if you have. Otherwise, I'd encourage the community to support the bill.

WAYNE: Any questions from the committee? Seeing none, thank you for being here. Any other proponents? Proponents. Any opponents, opponents? Anybody testify in a neutral capacity? Welcome.

JON CANNON: Good afternoon, Chairman Wayne, members of the Judiciary Committee. My name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the executive director of the Nebraska Association of County Officials, otherwise known as NACO, here testifying in a neutral capacity on LB81. First and foremost, one of the things that I'd like to mention to the committee is we routinely review the budgets for all counties across

Nebraska. And one of the things that we discovered over this summer was something a little bit interesting is-- and that is when you look at the spending priorities for all 93 counties, a pattern starts to emerge. And usually when we start thinking about in terms of a big three and then the other 90, in actuality, you could probably say there's actually a big five. The five largest counties in the state, Douglas Lancaster, Sarpy, Buffalo and Hall, their spending priorities are really, really similar to each other. And it's not like you could, you could squint your eyes and Buffalo looks a little bit like Saunders or Dodge or something like that. I mean, it's, it's really not even close. So, you know, in terms of that, really you're starting to see that, that those next two counties, Buffalo and Hall, are starting to look a lot more like Lancaster, Douglas and Sarpy in terms of their spending priorities. And of course, that translates to their needs. And so just something I want to put out there as perspective for, for the committee. And the other thing I wanted to mention is in reference to you guys absorbing the cost, this is a cost that's a necessary part of the, the share between the county and, and the state, as far as the-- you know, and the judicial branch is obviously a state organization, but they're dealing with very, very localized issues. And this is just one of those things that, that we share in the cost of and we're happy to do it. So with that, I'd be happy to take any questions and that's all I've got.

WAYNE: Any question from the committee? Senator Holdcroft.

HOLDCROFT: Thank you, Chairman Wayne. I probably should've asked this question earlier, but maybe you can help. So if we authorize these funds-- and we've heard that the judge that we want is probably going to be in the, the-- the term I'm looking for mostly. How do they get recruited or how do they get selected?

JON CANNON: Oh, boy, I-- well, how are, how are judges selected?

HOLDCROFT: Yeah.

JON CANNON: So there's a-- there are, there are committees that are, that are part of a judicial selection committee that's run through the-- partially through the bar association. I know just enough about that to be dangerous--

HOLDCROFT: OK.

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JON CANNON: --even though I sit on one of them as an alternate. But I, I don't want to-- I'm not the appropriate person to answer that.

HOLDCROFT: Sure. No, I can find out--

JON CANNON: I'm sorry, sir.

HOLDCROFT: --other ways. Thank you very much.

JON CANNON: Yes, sir.

WAYNE: Any other questions for the committee? Seeing none, thank you for being here.

JON CANNON: Thank you.

WAYNE: Anybody else in a neutral capacity? Neutral capacity. Senator Aguilar, you are invited to close. We have, for the record, no letters for the record.

AGUILAR: Thank you, Chairman Wayne. I'll be very brief. If there's one concept that I hope you gleaned from this process, it is that this is not a want; it's a need. Thank you.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you.

AGUILAR: Thank you.

WAYNE: Got something in my throat. With that, we will close the hearing on LB81 and open on LB363, LB363. Welcome, Senator Dorn. You just couldn't wait to get out of Appropriations to come see us today.

DORN: We've kind of challenged Senator Clements when we're going to leave today, what time we're going to be done, so we're getting after him. He's keeping us there, so. Ready?

WAYNE: Go ahead.

DORN: You bet. Good afternoon, members of the Judiciary Committee and Chairman-- Senator Wayne. My name is Myron Dorn, M-y-r-o-n D-o-r-n, and I represent Legislative District 30 and I'm here to introduce LB363. LB363 enacts a statutory process, process that would facilitate the consolidation of the ex-officio clerks of the district court into the Administrative Office of the Courts and Probation. This would promote additional uniformity and consistency with court activities.

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Beginning in January 2024, the bill begins to transfer only the district court responsibilities and functioning-- functions currently handled by the ex-officio clerks of the district court to the Nebraska judicial branch. This does not include any of the elected district court offices or officials. This bill would provide a reduction of expenditures and oversight for the clerk of the district court duties for the counties with those ex-officios. Generally, for some of you newer ones, that's generally the counties with lower population; not necessarily always, but generally. If you have so much population, there will be an elected one, but that's somewhat. Corey Steel will be here later to ask those, I call, detailed questions about that. The state would now assume those costs previously paid by the county to the administrative office with regards to the cost of paying for the ex-officio clerks duties. They're currently doing that in ten counties where agreements have been made. There are 38 counties that have ex-officios. They have already had agreements with ten of those. The rest-- the rest of the 28 counties would no longer need to support the district court duties by the elected clerk of the county. Other funding-- other funds coming to the counties for things like passport fees, they would stay in the county. So LB363 does not divert any of the funds that those clerk offices collect for other duties. This bill is not so similar to the county assessor's legislation. Consolidation of all the court functions in a judicial branch is a priority and what is best for the judicial branch and court users across the state. This bill does not result in lesser service than a county. Again, the Nebraska Supreme Court has long prioritized the goal of access to justice. The mission of the Nebraska judicial branch is to ensure the public has equal access to justice. This means the same like and equivalent access no matter what court you appear before and no matter what court staff assists use. I also would like to point out, though-- and this has been pointed out to us and to the court system also-- that there is an error in the front page of the title regarding county employees being state employees. That is not correct. And there is an E&R amendment that is being drafted or will be drafted or presented to correct that. At this time, I will be happy to answer any questions and just so-- I don't know. It's on line 9-- 8 and 9 of the, of the header-- the header for the bill. So that was inadvertently put in there wrong. So I will not-- and, and we'll have an amendment to change that.

WAYNE: Any questions from the committee? Senator DeBoer.

DeBOER: This doesn't affect any of the elected clerks, is that right?

DORN: No. This elect-- this does not affect any county or any district court that's currently elected.

DeBOER: OK.

DORN: This is only in those positions where-- generally, the-- like I said, the counties are small and then maybe the clerk of the district court or whoever, the county board is designated to handle those duties in that county. Those are the only ones that this will be affected.

DeBOER: OK.

DORN: And generally, they're part-time maybe staff in some of those offices that are helping handle this.

DeBOER: OK. Thank you.

WAYNE: Any other questions from the committee? Seeing none, thank you for being here.

DORN: You bet.

WAYNE: First Proponent. Welcome.

COREY STEEL: Thank you. Good afternoon, Senator Wayne and members of the Judiciary Committee. I am Corey Steel, C-o-r-e-y S-t-e-e-l, I am the, the state, the Nebraska State Court Administrator for the Administrative Office of the Courts and Probation, testifying in strong support of LB363. We would also like to thank Senator Dorn for introducing this legislation. The Nebraska court system is a unified system, almost. In 1970, the Nebraska Constitution was amended, resulting in several significant changes to the state court system. The amendment gave the Nebraska, Nebraska Supreme Court general administrative authority over all courts in the state. It shall be vested in the Supreme Court and shall be exercised by the Chief Justice. The Chief Justice shall be the executive head of the court and may appoint an administrative authority director thereof. However, the Nebraska Supreme Court still does not have administrative authority over all functions of the courts. In January 2024, LB363 would begin to transfer the district court responsibilities currently handled by the ex-officio clerks of the district court to the Administrative Office. This legislation does not eliminate the elected county clerk position in which they were elected for, which typically is consolidated county office that includes county clerk, county

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assessor, county engineer, county surveyor, registrar of deeds, and the clerk of the district court duties. It only transfers the responsibilities of the duties for the district court out of the county to the administrative office. This legislation is different than what we've had-- asked for in the past and has been introduced. It only addresses transitioning, transitioning the ex-officio clerk of the district court functions to the administrative office. It does not affect the elected clerk of the district courts. The intent is to have, at minimum, all clerks of the district court in Nebraska 100 percent dedicated to the mission-essential functions of the court versus having some of them split time between multiple positions where the district court responsibilities are not a top priority. We currently have an agreement in ten counties where the administrative office has assumed responsibilities of the district court. Map is provided in your handouts. Under this agreement currently outlined in the state statute, the counties reimburse the administrative office for the costs. However, under LB363, we would eliminate that and pick up all of that cost. As stated earlier, LB363 does not affect the elected clerks of the district court. It only addresses the ex-officio clerks of the district courts. A few areas of concerns you will hear are is there going to be adequate staffing in these counties? How is the administrative office going to handle walk-in filings, protection orders, etcetera? The Administrative Office of the Courts has a plan for these scenarios and mechanisms put in place to address them. LB363 is a step towards a better court system and a better court model that will be able to address some of the judicial branch's challenges and allow us to provide greater consistency in court administration. I ask for your support of LB363 and would be happy to answer any questions you may have.

WAYNE: Any questions from the committee? Senator Holdcroft, followed by Senator DeBoer.

HOLDCROFT: Thank you, Chairman Wayne. So just to make sure I've got this straight-- because you read that really fast?.

COREY STEEL: I know. I was pushing it to get--

HOLDCROFT: Well, I know you took it a different place.

COREY STEEL: --three, three minutes.

HOLDCROFT: So the ex-officio clerks of the district court, they are actually currently state employees, but they get reimbursed by the, by

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the, by the county for the duties they do. Is that-- did I follow that right or--

COREY STEEL: No, currently how it works for the ex-officio position-- and if you look at your map, it shows you the blue and the green counties across the state are the ones that have ex-officio clerks of the district court. They are actually elected county clerks. So they run for election for the county clerk position, they're a county function and they're given the duties based on that of the clerk of the district--

HOLDCROFT: District.

COREY STEEL: --court. So they're ex-officio. They're not elected for clerk of the district court--

HOLDCROFT: Right.

COREY STEEL: --but they're given those duties. And the county funds those-- that position and those duties and responsibilities.

HOLDCROFT: And the county funds it?

COREY STEEL: Correct.

HOLDCROFT: OK. And under this, we would eliminate-- I mean, the, the elected clerk would not have to do those duties and we would fund a new position for the, for the district courts. Is that what--

COREY STEEL: Correct. How we've done it, we have ten counties that we've already entered an understanding-- agreement with. State statute currently allows us-- if the county comes to us and says, I want you to take over those clerk of the district court duties, we enter into an agreement. We look at the district court caseload. We have a formula that we come up with. What is the cost for the staff need to supervise and to, to do the work for that district court and then the county funds the state for that portion. This would eliminate that. So those ten counties currently that are giving us money to provide that duty would be eliminated and that would go to zero. And then the blue counties on your map, we would transition those, according to the bill, in two steps at, at no cost to the county. So we would alleviate them of the clerk of the district court duties and we would transition that. In our, in our fiscal note, we had-- we do have staff that would then be added to our current county court staff and consolidate offices. So in the green counties that you see, we have entered into

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those agreements and we've consolidated a district court clerk's office and a county court's office into one. We have a clerk of the court. So we have one clerk's office that is there that then provides service to both the county court and the district court and they are state positions.

HOLDCROFT: OK. So then what about the pink? Are they--

COREY STEEL: The pink would be then the elected clerks of the district court. This bill does not address those.

HOLDCROFT: Elect--

COREY STEEL: They're elected positions. So there is nothing that is going to change with those pink counties.

HOLDCROFT: And they're funded by the county.

COREY STEEL: Those are funded by the county, correct.

HOLDCROFT: All right. Thank you.

COREY STEEL: And I will come and talk to you about the judicial process.

HOLDCROFT: OK, looking forward to it.

WAYNE: Senator DeBoer.

DeBOER: Thank you. So in the-- some of the smaller counties, maybe in some of those ex-officio smaller counties, are those always staffed full time?

COREY STEEL: Typically, what you see in the smaller counties as far as what is happening now is, is that elected clerk-- county clerk. So they are staffed full time. We have multiple counties on our county court where we share court staff just because of the need and the demand of the court. We may have court there once a month. We may have court there once a week. So we, we, we have mechanisms put in place where we have court staff that are there on assigned days. With this bill, we would enhance staffing, obviously, and that would allow us more flexibility and provide more staffing. But we also have been piloting a program in one of our jurisdictions where we're utilizing technology. So on the days that a court staff may not be there, there's going to be a touchpad screen that somebody is there and

would, would-- sign that says, need help? Please come here. And it's a kiosk, basically. And they would touch that and it automatically brings up one of our court staff in an adjacent county or a county in another jur-- somewhere else in the state. So they can have that conversation and discussion with a live person on a screen that says, what can I help you with? Hey, I need to file this or I need to pay my fee. We're going to have mechanisms in order where they can do that via technology. So online payment we have currently. Obviously, if somebody wants to pay cash, we can-- or pay a bond, we can set that up with the sheriff's office where they would collect that on our behalf and then get that if they're not there. So we're putting mechanisms in place already because we have county courts that have small counties that have low caseloads, that we don't have somebody there five days a week, 40 hours a day. But we've been able to provide the staffing that's needed and provide other, other resources on how we can manage those types of issues.

DeBOER: So what happens in the-- in some of these folks who are ex-officio district clerks, but they have some other job, but then they sort of get grandfathered into being the, the, the district court judge as well-- or a clerk as well, when you take those responsibilities away from them, are they no longer a full-time position? So if it's, I don't know, the election commissioner also is the, the district court clerk. When you take away the district court clerk position now, is that election commissioner no longer a full-time position?

COREY STEEL: So what I can tell you in the ten counties, Senator, that we have entered these agreements into, it has not affected their county clerk positions and reduced their positions in any way in that, in that sense, the ten that we've made agreements with.

DeBOER: And those were the ten where the-- it was the county clerk also had these--

COREY STEEL: Had these duties and then we assume those responsibilities.

DeBOER: You take those duties away, but the county clerk still retains a full-time position.

COREY STEEL: Correct.

DeBOER: OK. Thank you.

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WAYNE: Any other questions from the committee? Senator DeKay.

DeKAY: Thank you. The counties that, that are in the pink, they're, they're not entered into any kind of agreement or anything at this time, but they could-- and they could run business as usual now going forward, but if they want to enter into an agreement into the future, that would be a possibility to make changes at that time?

COREY STEEL: Potentially, yes. There is state statute that allows for the county to enter an election to eliminate the elected position. So that's a county process where there would be an election within the county to determine, do we have an elected clerk of the district court or do we not? And if they eliminated the elected position of the clerk of the district court through that election process, we would then transition that to us. There is some question that has been brought up just, just today, about an hour ago, from an individual that I've talked a little bit to Senator Dorn about. That we need to make sure maybe in the very first section of the bill, it eliminates the county board, the authority to, on their own accord, ask for an election of should we or should we not have the elected clerk of the district court. So we got to look into that a little bit. I think Senator Dorn has been made aware of that. So have I. I think we're OK, but if we need an amendment to make sure that both the county board, on a vote of the supervisors, can move to an election of, yes, we want a district court clerk or no, we don't. And if there's a petition drive to eliminate, both of those avenues still need to take place. We didn't-- if, if it was, it was a oversight to eliminate the county board's authority in order to do that.

DeKAY: Thank you.

WAYNE: Any other questions for the committee? Seeing none, thank you for being here.

COREY STEEL: Thank you very much.

WAYNE: Next proponent. Next proponent. Proponent. Welcome to your Judiciary Committee.

JASON GRAMS: Thank you, Chairman Wayne, and members of the committee. My name is Jason Grams, G-r-a-m-s, and I'm still the president of the Nebraska State Bar Association. Others here have testified on the specifics of this bill. The bar association supports the efforts of the Supreme Court to ensure consistency of operations and improve

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efficiency. From our members' perspective, the consolidation of these functions works well in the counties that have already adopted this model. LB363 presents a cost savings opportunity for counties that wish to take advantage of the option in the form of property tax relief and respects the offices of the elected clerks in counties that seek to continue in the current market. We think it just makes sense for the judiciary to be in charge of the clerks' offices, particularly in the smaller counties that elect to do so. And we'd like to thank Senator Dorn for bringing the legislation, Administrator Steel and members of the judiciary that worked very hard on this somewhat complex and technical piece of work. We'd encourage you to support LB363.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here.

JASON GRAMS: Thank you.

WAYNE: Next proponent. Next proponent. Seeing none, we'll move to opponents. Next-- first opponent. Welcome to your Judiciary.

DAUNITTA BUOY: Thank you and good afternoon. My name is Daunitta Buoy, D-a-u-n-i-t-t-a B-u-o-y, and I'm representing Rock County and would like to enter this written opposition to LB363 in the record. I've been an employee of the county, working with the district court for 16 years as a deputy and four years as the county clerk. For more than 15 years, we have been fighting to keep the district court clerk's office local and accessible for our taxpayers. I have attended the necessary trainings and workshops for district court. My deputy and myself also have re-- also received the continuing education required by the state for the court system. We might be employed by Rock County, but like our other jobs within the ex-officio world, we follow the rules set out for us from the Department of Revenue, the Secretary of State, and the Administrative Office of the Courts. Rock County reached out to the AOC to combine our two clerks' offices in 2010 when the clerk magistrate resigned. We were denied and the state pays the clerk magistrate to travel 144 miles round trip to Rock County. The county court services went from one day a week to half a day a week and currently is at the most, a half a day, twice a month. Due to this situation, my office has been providing most of the public access services for the county court. The county clerk office is open Monday through Friday, 9 to 5. Merging the office of the district court clerk with the county court would be of little or no financial benefit to our county. Rock County will still be responsible for the budgetary

costs to operate both courts with the exception of the salary of county court employees. Rock County would like to see the county court combined with the county clerk's office/ex-officio clerk of district court. Our county attorney has stated that an interlocal agreement could be drawn between the state and the county to help offset any additional educational services expenses incurred for county court. Even if the two courts merge, I do not believe there is enough cases to warrant the whole time employed. My office staff or provide these services for both courts, as well as the duties of the county clerk. If our district court records are transferred to county court and the office is not open, the public will not be able to receive a certified copy of a decree or that person who is doing genealogy and wants to confirm the rumor that Grandpa was a cattle wrestler, as our court files go back to case number one. The district court records housed in my office take up 15 and a half feet of wall space. It would be difficult to house the additional records in the county court office. Please consider the loss to the rural counties when the daily access to the courts may not be available.

WAYNE: Thank you.

DAUNITTA BUOY: Thank you.

WAYNE: Thank you for your testimony. Any questions from the committee? Seeing none, thank you for being here. Next opponent. Welcome.

TRACY REISER: Hi, I'm Tracy Reiser, T-r-a-c-y R-e-i-s-e-r, and I am the Boyd County Clerk/ex-officio clerk of the district court. I am adamantly opposed to the district court clerk job being transferred to the clerk magistrate. I have a very good working relationship with the clerk magistrate in my county right now and I don't want anything to ever interfere with that. I understand right now that all clerk magistrates will be staffed full time and-- but there would be no guarantee that in the future that it would remain that way. If this position stayed the way it is now, it would always be fully staffed in Boyd County. I do feel like I go above and beyond as the duties of the clerk of the district court. I have personally attended all trainings when available. I go in-person because I believe that this is the best way to receive the best type of training and updates. I help the citizens in Boyd County with the public access, access computer. I have all the forms readily available for the public when requested and I make sure they have the privacy they need when filling out any district court forms. We have a very good network of district court clerks who are able and willing to help us, the smaller counties, in

any way that they can. The public access computer right now is in my vault in my back room and I help anyone with the use of this computer. If I am no longer the clerk of district court, that machine will have to be moved and I'm not sure exactly in our courthouse where it would go. I do not think there would be room in the clerk magistrate's office, nor could it be put in the hallway per Fire Marshal standards. Also, I don't see how our clerk magistrate's office could house all of the district court files right now. If the county feels that it is in the best interest for their county to turn this position over to the state, there is already something in place for that to happen, but it should remain as a decision of the county and it should be not something that is forcefully removed from the county control. And thank you for taking the time to listen to my perspective and taking this into consideration. Thank you.

WAYNE: Any questions from the committee? Seeing none, thank you for being here. Next opponent. Next opponent. Good afternoon and welcome to your Judiciary.

TRAVIS HOBBS: I am Travis Hobbs, T-r-a-v-i-s H-o-b-b-s, Brown County Clerk/ex-officio and I am against-- taking an against position. I am the ex-officio clerk of the district court. I am vehemently opposed to the district court duties being transferred to the court magistrate. As the ex-officio of the district court, I am an elected official. This creates another level of accountability to all constituents. I make it a priority to attend the yearly workshops and any additional trainings made available if possible. I am always available for my staff to get a hold of me via my cell phone if a question arises on a court-related matter that they are unable to answer. I carry my laptop with me and have stopped in the middle of my vacation to process a filing if it is needed. These are the types of obligations that we as elected officials do not take lightly, as we are the employees of the residents of each of our own counties. LB363 will adversely affect Brown County. As with a lot of counties, offices' storage space is an issue. If the offices are to merge, then the county will be forced to create more office space for the county court to contain the records. As we are all aware, this will come at a great expense to the county. Currently, I employ one full-time and a part-time staff member. If LB363 passes, I will have a tough decision regarding that part-time position in my office. Currently, I have the workload to support the full-time, part-time person. If I was to have to cut that position, not only does it negatively affect that individual, but it will affect my office, as there are times in our busy season that even without the district court, that person is needed to help with our other seasonal

office duties. It can be argued that dollars will be saved by the county by eliminating that position, but we all know that any money saved on the county budget level will be sent to Lincoln to fund this transition. Furthermore, the county is paying the clerk's salary. Transferring will add unnecessary additional expenses for a new position the state will create. If LB363 passes, the transition will not be seamless, as the difference between county and district court is substantial. I have been in my position for eight years and still learning, as practices are continually evolving. In the past, the availability of court staffing in the county court has been brought up. The county court, through no fault of the clerk magistrates, tend to be closed frequently when they are in other counties or taking their deserved vacation or sick leave. While at the decision of the Supreme Court, the county courts are available remotely. District court is open and staffed every day of the week. In my time as ex-officio clerk of district court, I have witnessed the urgency that comes with district court matters where an on-location clerk makes a difference. In District 8 our remote-- remoteness creates its own set of issues that the judges, district court clerks and clerk magistrates have navigated successfully. We work well together to ensure that our people are taken care of. Thank you for taking the time to hear my concerns.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here. Any other opponents? Opponents. Opponents. Welcome.

MATTHEW FISCHER: Welcome.

WAYNE: I was growing mine out like that when my colleagues really got mad at me.

MATTHEW FISCHER: Well, I started when COVID hit and just haven't shaved since.

WAYNE: Welcome.

MATTHEW FISCHER: First time doing this. Matthew Fischer, M-a-t-t-h-e-w F-i-s-c-h-e-r. I want to thank you for letting us have this time. I'm testifying today in opposition to LB363. Served as the elected clerk of district court and jury commissioner for Knox County for the past eight years and in the first year of my third four-year term. As currently written, LB363 proposes obviously that the clerk of district court duties for the remaining 28 ex-officio clerks be transferred to

the clerk magistrate's employees of the Nebraska judicial branch. It's not the first time a bill of this nature has been before this committee and a nearly identical bill came forth in 2021. Years prior, various incarnations ranging from the current conversion to complete absorption or elimination of all 93 elected clerks of district court has been introduced and obviously, those have not advanced beyond committee. In the past, this legislation has been touted that the conversion is a property tax relief to the counties and at the expense of the salaries and benefits of district court staff, would become the responsibility of the state. In the case of this bill, where the county clerks would be relieved of their responsibility as clerk of district court, the question is will those county clerks be reducing staff, decreasing-- due to decreased responsibility? Is this actually property tax relief? How many of the ten counties that have already been converted to the unified court have reduced any staff? Remaining ex-officio-- 28 ex-officio counties, if they're converted, what exactly happens with the savings to the county taxpayers? I want to remind everybody that judicial financial burden on these counties, even after the state assumption of any district court functions, less wages and benefits, those will always be a responsibility of the county, from office supplies to court-appointed counsel. There's a fundamental difference between the types of cases that will come before the district court and county court. And state-operated county court may have higher case count, but the county-- the district court cases have longer shelf life. When it comes to domestic cases and criminal cases with long incarceration that equals years of numerous appeals, the domestic cases go onward until the child reaches the age of 19. Our cases have longer duration. The question is, if you take over the district court, will the current county court staff be able to serve and do justice to the patrons of the court? The answer is over time, there will be needing additional staff and additional state funding. Clerk of district court may not be under the direct control of judicial branch, but we strive to follow the directives given by the body. We consistently have met or exceeded our educational requirements set forth by the judicial branch and have embraced any and all technology the judicial branch has implemented. While we may be elected county officials, we are held to a higher standard, being accountable not only to the state judicial branch, but also to the taxpayers and the electorate of the counties we serve. And I thank you.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here. Any other opponents? Welcome.

JANET WIECHELMAN: Good afternoon, Senator Wayne and committee. My name is Janet Wiechelman, J-a-n-e-t W-i-e-c-h-e-l-m-a-n. I am the elected clerk of district court for Cedar County and I'm here representing the Association of the Clerks of District Court of Nebraska. Our association has met, which are the elected clerks of district court and also the 28 ex-officio counties. Our association has chose to oppose this legislation. We bring several issues to you. It's not a tax shift. It's not a tax savings. Yes, the bill does address a little bit more as far as the finances the county would be responsible for because it's not eliminating any staff from the county, county clerk's office. They'll maintain their staff. But however, there are still going to be the expenses the county is going to be required to, which is currently being done already in the county courts. The county is responsible for the office expenses. They will continue to support that for county courts, even with those 28 ex-officio clerks. We do-- I recognize the fact, though, the bill does identify the [INAUDIBLE] direct funds, and those would be the salaries and also the office expenses and expenses of the county with that all going to the state. However, the filing fee remains with the county. We address the issue of the county court staffing. Currently, there are counties, including outside the 28 ex-officio counties, where staffing sometimes is lax. There is not enough to benefit those people who need to use-- use of the county court. This is an issue in Dixon County, which the county next to mine. The county board and the clerk of district court assist the county court. The clerk, clerk of district court has hired a full-time deputy and that deputy also assists in county court when that clerk magistrate is gone or they need any assistance during the court. So other counties have chosen to do things such as all-- those ten counties who made the choice, their choice to move those duties to the clerk, clerk magistrate. Also in the county that is-- addressed the issue is Keith County. Keith County assists the Arthur County. They have a consolidation agreement to assist in those duties. You look at my map. It's the same map Mr. Steel presented. I put the population in the cases that were filed in the last fiscal year. You look at that list and you wonder, OK, why are these county courts-- clerk-- county clerks/ex-officios, why are they fighting to keep that position? Yes, small caseload, but it's because they live and work in that county. They are there to present and assist the residents of their county and also the public. Yes, there may be a device that may be available for someone to use it, but it's still not providing perhaps that person live to help. We work with self-represented litigants who come in to file cases. They need that personal assistance. And just to make a comment, Sioux County had pulled up

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their caseload. They only had six cases last year; two of them are protection orders. If I can continue, please?

WAYNE: I'm sorry. I've got a pretty strict rule about it. I apologize. Any-- go ahead, Senator Holdcroft.

HOLDCROFT: Would you like to finish your thought?

JANET WIECHELMAN: Thank you.

WAYNE: There we go.

JANET WIECHELMAN: If that person would have gone to Harrison County, Harrison-- I mean Sioux County, it's a large county. They travel to Harrison County. They got there, found out there was no personal assistance to file that protection order that they were requesting. Where would they go? Even if they have the accessibility of calling someone, the paperwork still has to get processed in some form and sometimes, they're meeting that assistance to get that done. Where do the people go? We represent those people who come in and a lot of times, they don't have an attorney to help them. So yes, we can't provide legal advice, but we can provide them by giving them the services and the forms. That is why. Small caseloads, yes, but it's still we're here to represent and assist those individuals. I'm open to take any questions you may have.

WAYNE: Any other questions from the committee? Seeing none--

JANET WIECHELMAN: Thank you very much.

WAYNE: Next opponent. Welcome.

BRIAN BURGE: Senator Wayne. Brian Burge, B-r-i-a-n B-u-r-g-e, repping myself in this case. Four things, if you really look at this bill, are being decided. It's where is the, the fiscal workload reside? Where does the money go? But most importantly, where does the responsibility lie and who decides who has that responsibility? So look at the existing statutes out there. This is a matter of efficiency. It's been on the books since the-- around the '60s that if they're small counties, they can downsize by vote of the people in the county. They want to combine it, they can vote for who they want. They can vote to close the office by a vote to the local control that is there. My question when you listen to proponents, says we want to alleviate the county of this burden. So if it's all about efficiency, what's the cost of justice? What's the, what's the value when it is 9:00 at night

and your spouse has committed something where you say, I need a sexual assault protection order now and I'm going to go and find a kiosk, log in and say I'm going to trust the person on the other side of the screen to take care of my concerns and keep my information confidential. Or do you want the person that you picked? Do you want your local control to be there? So if we really want to say, you know what, in the name of efficiency, in the name of streamlining, name to consistency, let's just-- well, let's get rid of the other roles. Let's consolidate more. Let's renounce our state charter and just let the federal government come in and run our lives. Because, look, that's so much more efficient. Let's move it up the food chain further. Well, we don't do that on a state level. We keep that control here. We keep local control where local people are affected by these decisions. And not, not daily traffic court decisions of paying my \$65 speeding ticket. Decisions of my family member has been accused of murder and this will be the trial of their life to determine what happens. Who am I going to trust? Where does that responsibility lie? So if we want to put this all into one spot where we say, well, let's put it into one body who is controlled by one chamber that is controlled by one individual as the chief who's on a ballot, has one name to say should he stay there or not? Is that local control? Do you want to trust that system to give you an iPad and say, here, speak into this. Defend yourself. What's our local control worth? Thank you.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here. Next opponent. Welcome.

JON CANNON: Thank you. Chairman Wayne, members of the Judiciary Committee, my name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the executive director of NACO here to testify in opposition to LB363. First and foremost, we appreciate the work that we have at the judicial branch. They do a fine job. They're stewards of our justice system and, and we have zero complaint about that. Secondly, and most-- and more importantly, not to disrespect the judiciary, but thanks to Senator Dorn, former Gage County Supervisor, he certainly knows the ins and outs of how county government works and I, I respect his opinion. And I, I won't gainsay it except for here today, but one of the things I noticed when we've heard testimony is that a lot of people were talking about what it means to property taxes. And oh, by the way, ordinarily, I'm in, I'm in the Revenue Committee. I used to counsel for the Property Tax Administrator. That's usually where I am, but I figured I didn't want to talk about opportunity scholarships so it seemed like Judiciary was a much better deal for me today. When I think about taxes and how we consider our tax policy, I ask four

questions and it's served me over the course of, you know, 25 years of practicing law in this area. Four questions are: what do we need to pay for? How much do we need? Who do we want to pay for it and how do we want them to pay? And how do you answer those four questions? Really kind of sets out what a sound tax policy would be. And so what we decided a long time ago is what do we want, what do we want to pay for at the local level? We want to pay for roads, bridges, law enforcements, courts, jails and elections. Those are the big-ticket items. And over time, we've, we've slowly shifted some of the responsibilities for courts over to the state. We decided that it was-- it's more efficient to run it from a central, central agency. And the question is, is do we have that last link that we have with local control broken here? You've, you've already heard from the folks about-- that were-- that came before me. They certainly don't think we need to lose that link between local control over the court system or a semblance of local control over the court system. And I guess the question is, you know, what are those things that are peculiarly local? That's, that is really the question that you get to as to why are we paying for this at the local level? People who use our courts are local by definition, but we want a standard-- a degree of uniformity within the judicial system. We don't want to have, you know, the Sioux County Court rendering decisions that are completely at odds with something in Douglas County. So that, that's really the tension that we have to resolve here and the tension that, that exists here for this committee in as far as whether or not we advance this bill is what degree of local control do we want? I can tell you that the clerks of the district court, as you can see by their attendance here today, are-- they're incredibly well organized throughout the state. One of the things that NACO is responsible for is we are responsible to provide resources to the county officials or connect them with the resources they need to do their jobs. We have been ramping up our educational resources that we put in front of them. We have online mentorship and a number of other things. I have to give a shout out to my deputy, Candace Meredith. She's really been responsible for that effort in our regard. But at the end of the day, as to whether or not this is a issue that remains an issue of local control, the system we have in place where it is a decision of the county as to whether or not they want to move that over to-- I'm out of time. I'll take any questions.

WAYNE: Question from the committee? Seeing none, thank you for being here.

JON CANNON: Thank you very much.

WAYNE: Next opponent. Opponent. Next, we'll move to those testifying in a neutral capacity. Neutral capacity. Seeing none, we have one letter of opposition. And with that Senator Dorn, you are allowed to close.

DORN: Thank you. Thank you very much, committee. Will admit-- Senator Holdcroft, you asked about the point. I was a board member for eight years on the Gage County Board. The county court is-- those employees are all paid for by the state, including much of the cost of running that except for the location. The county has to furnish a location. The district court in Gage County, those are all county employees, even the person in there keeping track of the-- all the notes and doing everything in the court at the time that was going on. The reason I know that is they, they ask for a raise every year because others were getting it in Gage County. We never gave that lady a raise or whatever. So there's a, there's a misunderstanding sometimes. You would think a district court would be state employees and a county court would be county, but it's just vice versa. That brings me to there were several people that talked about cost savings. The cost savings is still going to be up to that local entity, the local county board and those local elected officials on whether there is a cost savings. Because if they don't-- if this does happen and they go that route, those cost savings may not be there at all or there may be cost savings there. And that's each up to their own individual situations, whether there will be or not. I brought a bill like this for the four years since I've been here. We had some good discussion last year. I've had many discussions with the court systems. We are trying to put this in a place where it is something that's going to help the courts, not hurt them. If this bill hurts the courts, then no, that's not a good bill or whatever. We're here to help the courts. We're also here to help those small counties have the possibility of cost savings. Now, whether that happens or not, I don't know. But we'll be visiting with you. Thank you very much. Appreciate the, the Judiciary taking the time to hear the bill. Thank you.

WAYNE: Senator Holdcroft has a question.

HOLDCROFT: Yes, sir. Senator Dorn, appreciate the bill. Thank you, by the way, Chairman Wayne. \$2.2 million over the next two years, that's what the fiscal note says.

DORN: That should be a cost savings to the counties. It should be. That is--

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HOLDCROFT: Oh, I see.

DORN: --fiscal note that the state is--

HOLDCROFT: It's not a cost, it's a, it's a saving.

DORN: --willing to then pick up or whatever. That is what that fiscal note is showing. I do know they have-- and I don't know how it all directly relates to this bill or whatever. The court system does have an ask in Appropriations for some additional funding for this type of a program. But it may be-- I haven't talked to Corey about that. It may be more for the 10 than the 38 of them. So that would be what the state would need to pick up to pick-- to pay for picking up these problems.

HOLDCROFT: So it's a cost to the state of \$2.2 million.

DORN: That would be a cost to the state. That's the fiscal note to the state if this passes, yes.

HOLDCROFT: And the county will recoup. Hopefully, that will offset their costs and they could apply that--

DORN: As I visited with Jon Gannon [SIC] back here from NACO and everything, that should be a cost savings. Now, whether or not it is or isn't, that's up to those local entities to decide if, yes, that's going to be a cost savings. If they have an an employee and a half in the clerk's office and half of that employee- that, that half employee now is another half for the ex-officio part of it, how is that going to be absorbed in that county or where will that go or, or will that be in the county court now or-- that's a decision they make. That's not being directed on this end or whatever.

HOLDCROFT: OK, but I mean, the bottom line is, is this is \$2.2 million cost to the state and we don't know what savings it will be to the county.

DORN: Yes, we-- that is up to them. That is up to how they manage this. This is, this is the fiscal note again. And you'll, you'll hear it quite often on the floor don't know how they came up with that fiscal. note. This is the Fiscal Office coming up with that fiscal note that their best knowledge, this is what it will cost.

HOLDCROFT: OK and just to clarify something else, this just applies to the 28 counties, this bill.

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DORN: The, the-- this is only applies to the counties with ex-officios. Ten of them already have agreements with the court system. This applies then to those 28 other ones. That's all it applies to.

HOLDCROFT: OK. So just to, to be clear, I mean, in answer to a question from Senator McKay [SIC], Mr. Steel said that the other counties in the state, the pink counties--

DORN: Yep.

HOLDCROFT: --of the state could make similar deals, so.

DORN: They, they then have to go through-- generally speaking, I'd have to ask Corey for sure. My understanding when I was on the county board, we as a county board can put that to a, to a vote of the people of the county. And those people in the county would have to vote to decide to do that.

HOLDCROFT: If they do--

DORN: It would be--

HOLDCROFT: --are we are obligated to make, to, to make up that difference?

DORN: Yes. Then if that passed, then they would be obligated because that is an elected position in those counties. So this does not-- this does-- this bill does not deal with any of those with elected officials. Last year, the bill had it so that we gave an option to now just the county board could decide whenever that position became empty. In other words, an elected person in, in that position, if they were there for three terms and then decided not to run, then the board could have voted, if they wanted to, to put that on the ballot.

HOLDCROFT: OK. Thank you.

DORN: Yeah.

WAYNE: All right. Any other questions? Seeing none, thank you. That will close the hearing on--

DORN: Thank you.

WAYNE: --LB363. We will now--

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DeBOER: And that will open--

WAYNE: --open the hearing-- oh, I can't open the hearing. Chair DeBoer.

DeBOER: That will open the hearing on LB260. Senator Wayne.

WAYNE: All righty. All right. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and northeast Douglas County. LB260, it's a simple bill that designates the Nebraska Appellate Court's Online Library as the respository [SIC] for published judicial opinions in the Nebraska Supreme Court and Court of Appeals; provides for extra circulating-- sale of extra circulating copies of printed volumes of the court's decision; provided-- provides duties for the reporter on-- of those decisions. It's kind of technically just a cleanup bill to make sure we have a place to have all of our Opinions.

DeBOER: Are there any questions from the committee? I don't see any, so first proponent testifier. Welcome.

WILLIAM CASSEL: Thank you. Good afternoon, members of the Judiciary Committee. My name is William Cassel, W-i-l-l-i-a-m C-a-s-s-e-l. I am one of the judges of the Nebraska Supreme Court. This year will mark 31 years of judicial service; the last 11 years on the Supreme Court. Eight years before that on the Court of Appeals and 12 years before that on the district court for initially the 15th Judicial District, which was then merged into the 8th Judicial District. I want to thank Senator Wayne for bringing this bill on behalf of the Supreme Court. I'm here with the support of all my colleagues in support of what is actually very much cleanup legislation. The actual impetus to have a bill at all came about because of a U.S. Supreme Court decision having to do with the copyright of publicly generated documents. And those of you who were in the Legislature a year ago may remember LB708, which eliminated the duty of the Revisor of Statutes to copyright the statutory annotations in statutory materials. While the Supreme Court statute had a similar responsibility for the reporter of decisions of the Supreme Court and Court of Appeals to do a copyright. And since the U.S. Supreme Court decision, that would be superfluous since it would not be an enforceable copyright. So legislation was necessary. So while we're here, the thought was we started-- published decisions of the Nebraska Supreme Court started when the court started. And when the Court of Appeals came into existence, it started publishing bound volumes that contained all of the published decisions of that

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particular court. In the 1990s, we moved to releasing our published decisions on the Internet and the sales of published volumes plummeted. So by 2015, we were here in front of the Legislature and Senator Chambers sponsored legislation that was passed to allow us the option of ceasing print publication and publishing electronically only. And that's exactly what we did. It's been very successful and has in fact received some minor academic national attention at the way we went about doing it. It provides the Opinions of both appellate courts to the public for free. This bill would simply clean that up. I'm going to stop. I have about 30 more seconds if someone will give me a chance.

DeBOER: Are there any questions? I think there is. Senator Geist.

GEIST: Yes, Judge. I don't have a question, but you might complete your thoughts.

WILLIAM CASSEL: All right, so, so in addition to removing all the obsolete language about the print edition because we're never going back to print, this also eliminates the copyright reference and it modernizes the language to use the reporter of decisions rather than the more lengthy title of reporter of the Supreme Court and Court of Appeals. So it's simply a cleanup bill. It should be noncontroversial. We don't expect any opposition. And indeed, I think even Senator Chambers would have thought-- who was-- notoriously did not use what he called the gadget. I think he might have liked using the gadget for the purpose that we have. Thank you very much. I'll be glad to answer any questions.

DeBOER: Okay. Let's see. Senator DeKay.

DeKAY: Thank you, Senator DeBoer. Quick question: can a, a printed copy of the volumes be requested and gotten or is it--

WILLIAM CASSEL: One of the things the bill does is we have a few of the, the ones that have been printed and published that haven't been sold and remain in our inventory. And if someone wants one of those, they're still available to be purchased. We did have recently, I think within the last couple of years, a former law clerk who wanted a copy of the year that he had served as a law clerk. But by and large, no one comes for them. If they, if they want hard copies, they can simply print at their own expense because all of the Opinions of both courts, back to the very beginning, are electronically in the Nebraska Appellate Court's online library. So the entire repertoire of all of

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the Opinions is available in hard copy for anyone who wants it in that form.

DeKAY: Thank you.

WILLIAM CASSEL: Thank you.

DeBOER: Thank you, Senator DeKay. Other questions? I will ask you this and this is kind of off topic, but how do folks in the Penitentiary or in our correctional system have access to these to the Supreme Court and the Court of Appeals cases? Do they get the Advance Sheets? Are they-- how does that, how does that work for them?

WILLIAM CASSEL: Well, we haven't published Advance Sheets since 2015. So to be, to be perfectly honest, I really don't know exactly how they're doing it, other than I gather that there is some electronic access through the libraries within the institutions that are locked down to specific sites that they can access. But we do know they're citing our cases so when they--

DeBOER: Somehow.

WILLIAM CASSEL: --file-- we they have-- somehow they're seeing them so I don't know.

DeBOER: OK. Thank you. Are there other questions? I don't see any, thanks for being here.

WILLIAM CASSEL: Thank you very much and thanks again to Senator Wayne.

DeBOER: Next proponent testifier.

TIM HRUZA: Madam Vice Chair, members of the Judiciary Committee, Tim Hruza, last name is spelled H-r-u-z-a, appearing today on behalf of the Nebraska State Bar Association in support of LB260. Want to thank Senator Wayne for bringing it. Justice Cassel explained the basis and the reasons for the bill. I do just want to say that on behalf of the bar, attorneys do appreciate that the work-- the work that the court is doing to modernize and provide electronic access, technology for lawyers and for the general public too to have access to Opinions in the interest of justice. Although sometimes we may have hiccups with certain advancements, we appreciate all of the work that the court is doing to bring us into the 21st century in terms of the practice of law as we, you know, bring technology into the courtroom. So with

that, I'm open to any questions that you have, but we support LB260 and we ask for-- ask you to advance it to General File.

DeBOER: All right. Any questions for this testifier? I don't see anything, thanks for being here.

TIM HRUZA: Thank you.

DeBOER: Next proponent testifier. Any other proponents? Are there any opponents? Is there anyone here to testify in the neutral capacity?

SPIKE EICKHOLT: My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t. I'm appearing on behalf of the ACLU of Nebraska in a neutral capacity. I wasn't planning on testifying originally on the bill, but something that Senator DeBoer asked about kind of prompted me to come up here anyway. So hopefully that was a good decision. In response, if I look at the bill correctly-- and I don't have a physical copy, but on page 8, lines 25 through 26, the-- it references "the inmate library at all state penal and correctional institutions." And that's one of the listed entities or offices that receives copies of looks like the statutes and as amended by this bill, the electronic copy of the reporter of decisions. So I think what Justice Cassel said is accurate, that somehow the people who are in the prison system get copies of or at least have some sort of access to electronic copies. I just want to elevate that to make sure that whatever form this bill is in when it's advanced from committee, that that still stays there. And the legislative record is clear that the people-- the inmates in the prison system are entitled to have access that's meaningful to recent decisions from the Court of Appeals and the State Supreme Court. Any of those people who are in the prison system may have cases going on that might be civil cases. They may be criminal cases. Oftentimes, they are representing themselves and I think that's important and, and that they have access to the law. I know that there is some restrictions now in the prison system when it comes to inmate mail and legal mail in which they're not going to have physical copies really perhaps of any of those things given to them and they may have to rely solely on electronic copy. And I think it's important that the Legislature make sure that they have that access. I'll answer any questions if anyone has any.

DeBOER: Any questions for this testifier? I do not see any. Thank you so much. Are there any other folks here who would like to testify in the neutral capacity? I don't see any so I will say, as Senator Wayne is coming up to close, that there was one letter of support for the

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record. Senator Wayne waives clothings-- closing. So with that, we'll close the hearing on LB363 and open the hearing on LB236, which we're going to combine with the hearing on LB793.

WAYNE: So my name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e. I represent Legislative District 13, which is north Omaha and northeast Douglas County. Which it's starting to become a common theme, I'm asking this committee at this time on LB236 and LB793, not to advance them at this time. We still have some work to do and that's why I combined hearings on this because we're going to continue to work on this over the session.

DeBOER: Are there any questions from the committee? I have a question.

WAYNE: Yes.

DeBOER: Is this-- whichever one is about the the problem-solving court staff--

WAYNE: Well, both of them are probably-- both of them deal with problem-solving courts. It's just at this time, we got feedback since this bill was introduced. Some of the judges want to work out some, some kinks. And because in both LB50 and LB352, we have problem-solving courts in those, we can use those as a vehicle to work out their issues.

DeBOER: Great. So let me just ask you this: is this LB236 trying to do something similar to a bill we heard last year where we're trying to have some folks who are going to help with the judicial--

WAYNE: Yes.

DeBOER: That's what I thought. OK. Thank you. Any other questions from the committee? OK, first proponent testifier.

SPIKE EICKHOLT: Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t, appearing on behalf of the ACLU of Nebraska in support of LB236. I'm just going to be really brief because I understood what Senator Wayne said when he introduced the bill. This is a similar bill to what was introduced last year, as Senator DeBoer asked. We are in support of the concept because it does provide for an alternative to the traditional way of prosecuting people and it does hopefully have a role to play in addressing our overcrowding system in our, and our prison system. I'll answer any questions if anyone has any.

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DeBOER: Are there any questions? This is then the sort of, like, referees discussion?

SPIKE EICKHOLT: That's right.

DeBOER: OK.

SPIKE EICKHOLT: I think they were called referees last year. I think this year, they're called judicial hearing officers.

DeBOER: Perfect. I just wanted to make sure I was on the right page. OK. Did that spur any question, spur any questions? I cannot speak today. I don't think it did. So with that, we will take the next proponent. Proponents. Anybody here in opposition to either of these bills?

WEBB BANCROFT: I'm Webb Bancroft, W-e-b-b B-a-n-c-r-o-f-t, and I am testifying on behalf of the Nebraska Criminal Defense Attorneys Association. In regards to LB236, we are in opposition to that bill and due to the status of where it is now, we'll just show our opposition. That's all I'd have today.

DeBOER: All right. Are there any questions? Senator Geist.

GEIST: I'll just ask quickly. I almost hate to just ask because, because I know this is going to be worked out, so.

WEBB BANCROFT: We always hope.

GEIST: Yeah. Is it, is it because of, of putting someone in between the judge and, and participants? Is that the basis of your objection?

WEBB BANCROFT: That, that's certainly one of the main objections we had. And this is similar to LB1036, which a number of you had to hear last year. The cornerstone of problem-solving courts is the relationship established between the participants in the court and the judge. It's been studied for years and that is one of the key components, the ten key components. Additionally, there are issues involving taking somewhat of the local control away from courts, investing it in the Supreme Court to appoint these officers without going through the process of essentially a vetting when you nomin-- when you put in nomination to become a judge and the community gets to comment on you, practitioners get to comment, there's an opportunity to be heard. This is solely run by the Supreme Court without any of those protections, without even the officer-- the hearing officer

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having the same code of judicial ethics that the judges have to follow. So there's a number, but the key thing has always been the relationship between the participants and the judge.

GEIST: Thank you.

DeBOER: Are there other questions? I don't see any.

WEBB BANCROFT: Thank you.

DeBOER: Next opponent testifier.

PATRICK CONDON: Good afternoon, Vice Chair DeBoer, members of the Judiciary. My name is Patrick Condon, P-a-t-r-i-c-k C-o-n-d-o-n. I'm the Lancaster County Attorney here on behalf of Lancaster County Attorney's Office and also the Nebraska County Attorneys Association. I believe the committee has the Nebraska County Attorneys Association's letter in opposition of this bill. Again, just mirroring many of the comments that Mr. Bancroft made in regards to maintaining the, the integrity and the efficacies of these courts by using only judges in that position of the, of the individual who is in charge of these problem-solving courts. So with that, I don't have anything further. If there's any questions?

DeBOER: Any questions? I don't see any.

PATRICK CONDON: All right, thank you.

DeBOER: All right. Next opponent testifier. Anyone else here to testify in opposition to this bill or bills? Is there anyone here in the neutral capacity? OK, for LB236, we received four letters for the record; three letters in support and one in opposition. And for LB793, we received three letters of support for the record. Senator Wayne, would you like to close on either bill? Senator Wayne waives closing and that will end our hearing on LB236 and LB793 and end our hearings for the day.