

Transcript Prepared By the Clerk of the Legislature
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Appropriations Committee
March 08, 2011

[LB450]

The Committee on Appropriations met at 1:30 p.m. on Tuesday, March 8, 2011, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB450 and agency budgets. Senators present: Lavon Heidemann, Chairperson; John Harms, Vice Chairperson; Danielle Conrad; Tony Fulton; Tom Hansen; Heath Mello; John Nelson; Jeremy Nordquist. Senators absent: John Wightman.

SENATOR HEIDEMANN: Welcome to Appropriations Committee. Running a little bit late so apologize for that. We're going to start with introductions, we'll just start from over there, self-introductions.

SENATOR NORDQUIST: Jeremy Nordquist, District 7, downtown and south Omaha.

SENATOR HANSEN: Tom Hansen, District 42, Lincoln County.

SENATOR CONRAD: Danielle Conrad, north Lincoln.

SENATOR HEIDEMANN: I don't believe that Senator John Wightman from Lexington, District 36, will be here today with us. Over to my right is Doug Nichols. He's the fiscal analyst at the present time. I'm Senator Lavon Heidemann from Elk Creek, District 1. Over, way over to the left is our committee clerk, Anne Fargen. Our page for today is Christina, as she is every day. If you need help, she's a great resource. Sitting next to my left is...

SENATOR HARMS: John Harms. I represent the 48th Legislative District, Scottsbluff.

SENATOR HEIDEMANN: Sitting next to his left is Senator John Nelson, will be joining us later, from Omaha, District, 6. Next to his left is Senator Tony Fulton from Lincoln, District 29. And last but not least is...

SENATOR MELLO: Senator Heath Mello, District 5, south Omaha and Bellevue.

SENATOR HEIDEMANN: At this time we would ask if you have cell phones to please shut them off as to not be disruptive later. Testifier sheets are on the table near the back doors. We ask that you would please fill them out completely and put them in the box on the table when you testify. At the beginning of your testimony, we would ask that you would please state and spell your name. Nontestifier sheets near the back doors if you do not want to testify but would like to record your support or opposition. You only need to fill these out if you will not be publicly testifying. If you have printed materials to distribute, please give them to the page at the beginning of your testimony. We need 12 copies. In an effort to be fair to all that want to testify on the budget this year, the

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Appropriations Committee will be using the light system. The principal introducer or the principle agency representative will not have a time limit. We do, though, urge you to keep your testimony concise and on topic. All testifiers following will be given four minutes on the green light. On the light system sitting on the testifier table, you will notice a green light when you start your testimony. When you have one minute left the yellow light will turn on. When the red light turns on we ask that you please wrap it up. Following the principal introducer on bill hearings, we will take testimony first from proponents, then opponents, and then the neutral capacity. For agency budget hearings we will take general comments on the agency budget proposal following the principal agency's representative. With that, we are going to start today's public hearing with LB450, Senator Ashford.

STACEY CONROY: Good afternoon. My name is Stacey Conroy. I am here to introduce LB450 on behalf of Senator Ashford from District 20, and this bill has been introduced on behalf of the Supreme Court to extend authority for the Supreme Court to use five various cash funds for the next biennium, and there is an emergency clause in the bill. [LB450]

SENATOR HEIDEMANN: Thank you for... [LB450]

STACEY CONROY: I would take questions if you have them but I don't know if I would be able to answer them. The Chief Justice is here behind me to answer questions as well. [LB450]

SENATOR HEIDEMANN: Well, thank you for coming in today and introducing LB450. Are there any questions? Senator Harms. [LB450]

SENATOR HARMS: It's unfair, Stacey. We have to be nice to you. Okay. (Laugh) [LB450]

STACEY CONROY: Thank you for your kindness. [LB450]

SENATOR HARMS: You're welcome. [LB450]

SENATOR HEIDEMANN: Any other questions? Seeing none...oh, Senator Conrad. [LB450]

SENATOR CONRAD: Thank you, Stacey. I was just wondering if you'd be available to help me introduce bills at some point in time,... [LB450]

STACEY CONROY: Anytime. [LB450]

SENATOR CONRAD: ...because this is apparently a very efficient way to go. But we will

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take up additional questions with Senator Ashford if they do arise. [LB450]

STACEY CONROY: Okay. [LB450]

SENATOR CONRAD: We thank you for being here. It's an important issue and I know that this was part of the LR542 process and preparing to deal with budgetary issues that we have presently before us in ensuring our third and coequal branch of government remains independent and strong, and it's all a part of that. So thank you. [LB450]

STACEY CONROY: Thank you. [LB450]

SENATOR HEIDEMANN: Will you be sticking around for your close? [LB450]

STACEY CONROY: Yeah. I think I'll waive closing but I'll stick around. [LB450]

SENATOR HEIDEMANN: All right. [LB450]

STACEY CONROY: Thank you. [LB450]

SENATOR HEIDEMANN: Is anyone else wishing to testify in favor of LB450? [LB450]

MIKE HEAVICAN: I'm going to testify in favor of it, but I will do it during our general budget presentation if that's okay. [LB450]

SENATOR HEIDEMANN: That's fine. Is anyone else wishing to testify in favor of LB450? Welcome. [LB450]

BILL MUELLER: Thank you, Mr. Chairman. My name is Bill Mueller, M-u-e-l-l-e-r. I appear here today on behalf of the Nebraska State Bar Association in support of LB450. The Bar Association does support the bill which extends the authority of the Supreme Court to June 30 of 2013 to make cash fund transfers from the Supreme Court Education Fund, the Supreme Court Automation Cash Fund, the Dispute Resolution Cash Fund, and the State Probation Contractual Services Cash Fund, and the Probation Program Cash Fund. I know that the Chief Justice is here and he will speak at the hearing on their budget, but we do support this. The court believes that this is necessary in order for them to balance their budget in the following biennium and the bar does support that. Be happy to answer any questions that the committee may have. [LB450]

SENATOR HEIDEMANN: Are there any questions? Seeing none, thank you for coming in today and testifying. [LB450]

BILL MUELLER: Thank you. [LB450]

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SENATOR HEIDEMANN: Anyone else wishing to testify in favor of LB450? Does anybody want to testify in opposition on LB450? Does anybody want to testify in the neutral position on LB450? Seeing none, you waive closing. With that, we will close the public hearing on LB450 and, moving on, we will open up the public hearing on Agency 5, the Supreme Court. Welcome. [LB450]

MIKE HEAVICAN: (Exhibit 1) Welcome. Thank you. Good afternoon. I'm Mike Heavican, that's spelled H-e-a-v-i-c-a-n, and I'm the Chief Justice of the Nebraska Supreme Court. Chairman Heidemann, Senators, thank you so much for having us here today. Cutting right to the chase, the Nebraska Supreme Court supports the committee's preliminary recommendations except for those recommendations concerning Program 52, which is the court's operating budget. The Supreme Court requests that the current recommended 5 percent reduction in Program 52 not be included in the committee's final recommendations. In other words, I'm requesting that the committee fund the courts at the level the Supreme Court submitted in its budget, which was a flat-line budget request. In my State of the Judiciary Address and elsewhere I have stated that the court's General Fund budget goes largely to pay salaries and benefits for our employees. Over 95 percent of the General Fund expenditures for courts is used for those salaries and benefits. Any reduction, whether it is 1 percent, 5 percent or greater, necessarily impacts the number of employees and judges we have available to serve the public. Our service to the public is special and unique. Our mission is to provide access to justice for all of Nebraska citizens, rich and poor, strong and weak, young and old, rural and urban. The economic downturn has not lessened the need for access to justice. It has increased that need. The work of the courts, the work the courts do for abused and neglected children, for vulnerable adults in need of guardians and conservators, and the work the courts do with truant young people are but a few examples of the difficult but vital work the courts do for all Nebraskans. Hard times have increased the number of abused and neglected children, increased the vulnerability of our elderly, and contributed to the rise in truancy. Just this morning the Judicial Resources Commission met concerning the filling of five judgeships, some in rural areas and some in our urban areas. Senator Harms, you were there and you heard most of that testimony. All of the testimony spoke to the urgency of filling existing judicial vacancies, the vital role that judges and lawyers play in communities, and the current sacrifices our judges and employees are making to cover for existing vacancies. Our employees and judges have responded to the current budget shortfalls with a can-do attitude. They have been asked to increase their workloads, receive smaller raises than other government employees and get less reimbursement for out-of-pocket expenditures than other state employees. Our employees know that the Supreme Court is scrutinizing all expenditures. Employees are being eliminated by attrition when possible and the filling of all vacancies, including judgeships, is being delayed just to meet budget cuts imposed this fiscal year. Our employees also know that the same careful scrutiny of expenditures will continue into

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the next biennium. They know further delays in hiring will also continue. If there is a further 5 percent budget cut, however, those sacrifices will, by necessity, become greater. More delay in hiring and filling positions would be necessary and particularly in the second year of the biennium furloughs would be likely. If furloughing employees does not accomplish needed reductions, termination of some employees would follow. Our flat-line budget request, as submitted, not only assumes that LB450, that's the bill that Stacey just talked about, will pass but also assumes that court operations will use approximately \$500,000 and probation will use approximately \$300,000 each year from those cash funds that you just heard about. In other words, restoring the 5 percent cut will still likely require us to use cash funds in order to make it through the next biennium. A 5 percent cut would mean that approximately \$1.3 million in additional cuts or additional funding would be needed. Obviously, LB460 becomes extremely important to us...excuse me, LB450 becomes extremely important to us even if the 5 percent proposed cut is reduced. But our first preference is that you reduce or eliminate the 5 percent cut as well as pass LB450. We also ask for your support for allowing the Supreme Court to carry over this year's savings, those current estimates being \$500,000 on the court side of the budget and approximately \$300,000 on the probation side of the budget. Everybody has worked very hard to come up with those savings. Doing so would help our budget issues somewhat. I also ask that the committee keep in mind that there are several other bills that must also be considered in determining or in making your final recommendations. Some bills have a short-term impact, some a long-term impact. In addition to LB450 that list includes: LB251, which increases court fees to be directed to the Supreme Court to offset General Fund reductions; LB451, which includes several proposals. For example, LB451 delays establishment of a new district court judge in Lancaster County, an item currently in your committee's preliminary recommendations which would not be needed until the second year of the biennium. LB451 also allows judicial hearing officers to handle some judicial functions and, when available, also allows non-General Funds to be used for interpreter activities. LB452 we would also like you to take note of, implements a tax intercept program for unpaid court costs that could potentially increase General Fund revenue. The courts have approximately 1,100 employees, including our probation employees, as well as 144 judges. For the most part, those employees are not located in this building. They are located in the county courthouses around the state of Nebraska. All of the employees are dedicated to providing access to justice for Nebraska citizens. Please reconsider the proposed 5 percent reduction to the court's operating budget. Regardless of your final recommendations, however, all of Nebraska's judges and all of the court's employees will continue to work to make sure the tax dollars of Nebraska citizens will be spent wisely and the special and unique role of the courts is carried out so as to maximize access to justice for all Nebraskans. Thank you very much for your time and I would be happy to entertain questions. [LB450 AGENCY 05]