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Transcriber's Office

Executive Board
March 03, 2011

[LB86 LB270 LB271]

The Executive Board of the Legislative Council met at 12:00 p.m. on Thursday, March 3, 2011, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB86, LB270, and LB271. Senators present: John Wightman, Chairperson; John Nelson, Vice Chairperson; Mark Christensen; Deb Fischer; Russ Karpisek; Chris Langemeier; Steve Lathrop; and Lavon Heidemann. Senators absent: Mike Flood; Rich Pahls.

SENATOR WIGHTMAN: I think we'll go ahead and get started with our hearings today. Welcome to the Executive Board Committee hearing. We have three different bills up today. My name is John Wightman. I'm from Lexington and represent the 36th Legislative District and serve as Chair of the committee. The committee will take up the bills in the order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. To better facilitate today's proceeding, I ask you abide by the following procedures. Please turn off your cell phone or silence them. The order of testimony will be first the introducer and then proponents of the bill, opponents of the bill, neutral, and then closing. Testifiers should sign in. Your sign-in sheet should be given to the page when you come up to testify. We'd ask that you please spell your name for the record before you testify. We'd ask the introducer and all of you that you be concise and on point. Written materials may be distributed to committee members as exhibits only while testimony is being offered. Hand it to the page for distribution to the committee and staff, and we will need 13 copies if you're going to distribute exhibits. If you have written testimony but do not have 13 copies, please hold up your hand now or when I finish so that the page can make copies for you. If you do not wish to testify but would like your position to be part of the record, you can sign the form found at the testifier's table by the testifier sign-in sheet. Now as far as introductions, I'll start on my far right which is Senator Heidemann from Elk Creek, Nebraska. And to his left is Senator Mark Christensen from Imperial, Nebraska. Speaker Flood will not be with us today. He would normally be seated to the left of Senator Christensen. To his right, Senator Karpisek from Wilber, Nebraska. To his left would be Senator John Nelson who is also Vice Chair of the committee. Seated to my right is Janice Satra, the legal counsel for the committee. And to my left is Jessica Shelburn who is clerk of the committee. Then starting to the far left will be Steve Lathrop who represents District 12 from Omaha, Nebraska. To his right is seated Senator Deb Fischer, District 43 of Valentine, Nebraska. Also Senator Pahls who is a member of our committee will not be here today. And then seated to his right were here is Senator Chris Langemeier, District 23 of Schuyler, Nebraska. So with that, the committee will take up the bills, as I said, in the order which the first one will be LB86 which will be introduced by Senator Christensen.

SENATOR CHRISTENSEN: Thank you, Mr. Chairman, members of Exec Board. I'm Senator Mark Christensen, C-h-r-i-s-t-e-n-s-e-n. I represent the 44th Legislative District.

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

Executive Board
March 03, 2011

LB86 would eliminate the Legislative Research Library. The purpose for proposing elimination of the Legislative Library is in response to the need to reduce spending which the A bill didn't give me any (laugh) to help within the Legislative Council to reach a balanced budget in light of the current projected revenue shortfalls in the state of Nebraska. We've had several discussions through the LR542 process to look for ways to reduce expenditures within the Legislative Council. This is one idea to cut costs where the apparent usage may not justify the expense. I would ask that you use this bill as a vehicle to evaluate current expenditures and whether it is necessary to continue into the future. Obviously, I'll be working with the Exec Board to address any concerns you have and thank you for your consideration of LB86. [LB86]

SENATOR WIGHTMAN: Thank you, Senator Christensen. Do we have any questions of Senator Christensen? Senator Lathrop. [LB86]

SENATOR LATHROP: Yes. I appreciate that this is like a LR542 sort of an approach to what we're here for this year. But do you have...are we going to save any money if we do this? [LB86]

SENATOR CHRISTENSEN: Not according to the fiscal note. It's too closely tied with Legislative Research. They're set kind of two separate departments now, but basically under one. Basically we just need to move them both under one. And if we decide there needs any corrections or adjustments to it, do it within either the third bill you're going to hear today or this bill and... [LB86]

SENATOR LATHROP: But when you say "corrections," are you talking about...are you suggesting that the fiscal note says there's no savings because they're...the research people are too close to the fiscal people? [LB86]

SENATOR CHRISTENSEN: No, no, no, no, no. [LB86]

SENATOR LATHROP: I'm not tracking you. [LB86]

SENATOR CHRISTENSEN: What I meant by that is the library and stuff is so "tiedly" close to the need for it with Legislative Research that even if you remove the part of Legislative Library, there may be no savings because Research may still need all the reference materials. [LB86]

SENATOR LATHROP: Oh, I get you. So the savings really is in eliminating these people that do research for us. [LB86]

SENATOR CHRISTENSEN: Correct. [LB86]

SENATOR LATHROP: Okay. [LB86]

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

Executive Board
March 03, 2011

SENATOR CHRISTENSEN: There's another bill that would eliminate that. [LB86]

SENATOR LATHROP: Now are we going to...is somebody suggesting we do that? [LB86]

SENATOR CHRISTENSEN: That's the third bill. [LB86]

SENATOR LATHROP: Okay. All right. Thank you. [LB86]

SENATOR WIGHTMAN: Thank you, Senator Lathrop. Senator Christensen, actually if we were looking at an umbrella bill, LB271 really would allow us to do anything in your proposed LB86. Is that correct? [LB86]

SENATOR CHRISTENSEN: Correct. I have no problem with an IPP. (Laugh) [LB86]

SENATOR WIGHTMAN: Any other questions? Yes, Senator Nelson. [LB86]

SENATOR NELSON: Thank you, Senator Wightman. Senator Christensen, do you have the fiscal note there in your copy? [LB86]

SENATOR CHRISTENSEN: Yes. [LB86]

SENATOR NELSON: I note on the comment there that this is eliminating statutory reference, but it says the Executive Board would still have the authority to continue the operation of the library under its general statutory charge. Now is that your understanding? [LB86]

SENATOR CHRISTENSEN: That is my understanding. [LB86]

SENATOR NELSON: So if we decided to stay on with this or in the future reinstate it, then we can do that. [LB86]

SENATOR CHRISTENSEN: Correct or basically what I see needs done is you need to put the two together and just have one instead of even having them broke separately. [LB86]

SENATOR NELSON: On line 6 of the bill, prior to that it says they "shall" do this which means "shall maintain a legislative reference library." Would it be possible we could just change the language "and may maintain a legislative library." Would that achieve the same thing? I mean it still gives us the option. [LB86]

SENATOR CHRISTENSEN: It does but I think you have it anyway. You know,

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

Executive Board
March 03, 2011

technically this bill could be killed and we'd have no change or difference in what we going for it or not going for it. [LB86]

SENATOR NELSON: All right. Thank you very much. [LB86]

SENATOR WIGHTMAN: And part of the reason, Senator Christensen...thank you. Part of the reason for the fiscal note and the problem with coming up with one is that it isn't mandatory. And unless it were mandatory, there's no really determined savings. Is that correct? [LB86]

SENATOR CHRISTENSEN: Yeah. [LB86]

SENATOR WIGHTMAN: Thank you. Any further questions? If not, are there any other people here who want to speak in favor of LB86? Is there anyone that wants to testify in a neutral capacity? Are you... [LB86]

LYNN REX: I'm opposed to. [LB86]

SENATOR WIGHTMAN: What? [LB86]

LYNN REX: I'm opposed to the... [LB86]

SENATOR WIGHTMAN: Okay. Excuse me, in opposition to. [LB86]

KEN WINSTON: (Exhibit 1) Yes, sir, I'd just like to offer written testimony. Could I give it to your...? [LB86]

SENATOR WIGHTMAN: If you want to, just give it to the clerk. [LB86]

LYNN REX: Senator Wightman, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We do oppose this and we're also going to testify in opposition to the third bill that you're going to hear today because I think in light of what's occurring with term limits and those of you that will be gone in two years you need to have some...you need to have a Research Library, you need to have a Research Division. I don't care what you call it, but you need to have a Research Division. And for the new senators, and some of you may remember when you first started that you were looking for information. And you don't want to be in a position that the only folks from whom you can get information are the lobbyists. And as one, you know, we try to provide the best and most accurate information to senators that we possibly can. And if there's a mistake, we want to be the first ones to tell you we told you it was X but now it's Y and we found that out; we're sorry if that's what happened. But you need to have an independent Research Division that you can go to and that new senators go to and particularly the new senators so that

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

Executive Board
March 03, 2011

they're on a level playing field. I mean you think about your learning curve in terms of the types of information that you need and that you needed when you first started. And sometimes the longer you're here the more that you know, you need more and more information. Perhaps on some issues you don't need to get Legislative Research involved on some of your efforts because you already know what you need to know. But I'm just suggesting to you that the issue of term limits is going to have a compounding effect on the effectiveness of state senators in the long run. And we just think this is very important that you make sure that you are staffed and able to do your jobs. And again, whether or not making it a "may" or "shall," whatever it is, at the end of the day you want to make sure that you have those resources. I'd be happy to respond to any questions that you might have. [LB86]

SENATOR WIGHTMAN: Thank you, Lynn, for being here and for your testimony. Do we have any questions of Lynn Rex? [LB86]

LYNN REX: Thank you. [LB86]

SENATOR WIGHTMAN: If not, thank you. Are there any other persons present who would want to testify in opposition to LB86? Seeing none, are there any persons here who want to testify in a neutral capacity on LB86? Seeing none, we have a letter from Kenneth Winston, Public Policy Advocate, in opposition, and I guess I should have put that in, in opposition but we will make that part of the record and we just received it today. Also with regard to someone in a neutral capacity and Nancy Cyr is here; but since LB271 would appear to be the umbrella bill, I've asked her to be here to testify in a neutral capacity and we'll get to that in a minute. But she could testify here but it seems logical to have her testify one time. Nobody else in a neutral capacity? If not, we'll close the public hearing on LB86, and I will relinquish the Chair to Senator Nelson since I will be the introducer on the next two bills. [LB86]

SENATOR NELSON: Thank you, Senator Wightman. We will open the hearing then on LB270 and, Senator Wightman, I would invite you to open as the principal introducer at this time. [LB270]

SENATOR WIGHTMAN: Okay. Thank you, members of the committee. Good afternoon. My name is John Wightman, spelled W-i-g-h-t-m-a-n. I represent District 36. I'm here today as Chairperson of the Executive Board to introduce LB270. LB270 and LB271 were both introduced as a result of the LR542 process which, as you know, required the Executive Board to identify Legislative Council services, programs, and obligations that could be reduced or eliminated during the 2011 session. Specifically, LB270 would repeal legislation passed in 2008 which expanded the scope of the investigative authority of the Office of Public Counsel to include any regional behavioral health authority, any community-based behavioral health services provided that contracts with a regional...provided with a regional behavioral health authority, and any county or

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

Executive Board
March 03, 2011

municipal correctional or jail facility. LB467 authorized three additional positions, and I want to make sure that you know that one of these positions was cut during the special session and one has been left vacant at my request as we work through our budget shortfalls. And that was discussed before the entire committee. I'm not going to take a lot of time. Again, we don't have a fiscal note as to what the savings will be because I think we'll probably work through these in some manner other than...it may very well be that this one will be cut, but that's going to be a decision I think that would be made in Executive Committee. So I think it would probably be premature to come up with a fiscal note as to exactly what it would say, particularly in light of the fact that we already have one position that is vacant. And we also need to visit more with Tom Bergquist with regard to exactly what the savings might be in this regard. Although I'd be glad to answer any questions you might have, I want to say that I've asked Marshall Lux to come up during the neutral portion of the hearing to answer your questions. He can probably give you a lot more information than I with regard to what personnel he has and what this would do to the Ombudsman's Office. [LB270]

SENATOR NELSON: Thank you, Senator Wightman. Senator Lathrop, you had a question. [LB270]

SENATOR LATHROP: Thank you, Senator Nelson. Senator Wightman, is the purpose...we kind of ran into this over in Business and Labor when we were looking at the Department of Labor and the number of investigators they had. And we had the opportunity to say quit investigating these few things so that they eliminated an investigator and saved us money or we could have just said eliminate an investigator and keep the same responsibilities, just while we're in this crunch do them all with less staff. And I'm wondering if that's really what we're talking about here. [LB270]

SENATOR WIGHTMAN: I think it could be. I'm not saying that that would...that there would be enough staff left to perform those services, particularly in light of the fact that we've already cut one position. [LB270]

SENATOR LATHROP: Right. [LB270]

SENATOR WIGHTMAN: So there's going to be some question I think, and perhaps again that could be addressed far better with Mr. Lux as to what that would do to his department. [LB270]

SENATOR LATHROP: Okay. The interesting thing that I...and I appreciate that the Exec Board has taken this matter up, but I was on Judiciary Committee when we expanded the scope. And my own view after listening to that testimony was the Ombudsman's Office serves an important function to those people that are there. I mean it gives them an outlet. If they don't have an outlet, they're going to be trying to express their problems in different ways. And I think it serves an important function, social function to

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

Executive Board
March 03, 2011

have somebody that they can complain to, somebody that can investigate. And they do from time to time uncover some things that we don't want to have happen. So I guess I'll look forward to talking with Mr. Lux. But I'm more inclined to cut their staff if we need to, to balance the budget and not their duties. [LB270]

SENATOR WIGHTMAN: And another thing you could keep in mind I think and it's not intended to be pro or con on this situation. [LB270]

SENATOR LATHROP: Sure. [LB270]

SENATOR WIGHTMAN: But one of the things they do is put out a lot of fires probably out there. [LB270]

SENATOR LATHROP: I think they do. [LB270]

SENATOR WIGHTMAN: And some of those could result in lawsuits perhaps against the state or the county, more likely the county. [LB270]

SENATOR LATHROP: I think that's very, very real and, yeah, putting out fires. I know that they've been very instrumental as we've seen the work in the developmental disabilities. The committee did a lot and the Governor changed many of the leaders over there, but there were still individual instances where people had very real concerns. And that office has done a fabulous job dealing with those, and it has, I'm sure, defused the potential of different lawsuits just knowing somebody was here and trying to do something so. [LB270]

SENATOR WIGHTMAN: And I'm sure that is an issue. [LB270]

SENATOR LATHROP: Okay. [LB270]

SENATOR NELSON: Thank you, Senator Lathrop. Senator Christensen. [LB270]

SENATOR CHRISTENSEN: Thank you. The fiscal note, you disagree with that then where it says \$130,000 savings or had you not noticed that? [LB270]

SENATOR WIGHTMAN: Well, you know, I think depending upon how broad it cuts we took or whether we did what Senator Lathrop is talking about...I think he's talking about cutting two positions over there. It might actually be higher than that I would think possibly. [LB270]

SENATOR CHRISTENSEN: Thank you. [LB270]

SENATOR WIGHTMAN: I don't know because I don't know the salaries of the people

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

Executive Board
March 03, 2011

that he would be cutting. But I think he's talking about two positions, well, probably just one in addition to the one that's already been taken. [LB270]

SENATOR NELSON: Are there any other questions for Senator Wightman? All right. Thank you, Senator Wightman. [LB270]

SENATOR WIGHTMAN: Thank you. [LB270]

SENATOR NELSON: Are there proponents of LB270 who would like to come forward and testify? Is there anyone in opposition to LB270? Thank you. If you'd be good enough to state and spell your name for the record. [LB270]

AMY MILLER: (Exhibits 2, 3) My name is Amy Miller, that's A-m-y M-i-l-l-e-r. I'm legal director for ACLU Nebraska, and I'm here today out of concerns for the Eighth Amendment if we eliminate the responsibilities for the Ombudsman's Office to cover county jail facilities. I've worked for the ACLU for 12 years and the worst calls I get are emergency medical mental health calls coming out of the county jails. These are situations where someone has been picked up often in a small rural county, they come in with a serious medical problem or mental health problem and the county jail does not usually have full-time medical staff or mental health staff. Our state prisons do, and our state prisons are doing a good job overtaking care of these people. The county jails don't know how to assess these issues, and they often then just don't deal with them. And so I'll get emergency phone calls that are described in many part in the report that I'm handing out called "Barred from Hope." This is a report we did in 2005 where we called for reforms including expanding the Ombudsman's Office or another independent watchdog to have the ability to cover county jails, not just the state prisons. On pages 4 and 5 of that report we give real-life examples of some of the problems we've had coming out of the county jails. For example, we had a 55-year-old man sentenced to do just a couple of months. He had a nonviolent offense that he was charged with in a southeastern county jail. He had a history of heart attacks and so he came in needing both nitroglycerin and his daily heart pills. The county jails are always stuck in this position. They don't want to just give you some pills that you walk in with in your pocket because those could be illegal drugs, but it's expensive to go out and get new prescriptions. Sometimes maybe due to budget constraints, maybe sometimes due to lack of education and lack of advice the county jails just don't provide anything. This man was having heart chest pains and his only medication was a daily aspirin. It took the ACLU's contact after we heard from his wife to educate that county jail so that they did get him to an actual doctor. In a northeastern county jail, we had a man who was on serious antipsychotic medications who, again, was arrested, convicted, and who was supposed to do six months for a nonviolent offense. The jail had no medical staff. They didn't know what to do with him, and they didn't provide him with those prescription pills. He started hearing voices telling him to kill himself, and his wife called us in an emergency basis so that I had to make contact with the sheriff. These are unpleasant

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

Executive Board
March 03, 2011

calls for them to get I'm sure. They're getting a call from the ACLU saying if that man hurts himself or dies in your jail you'll have a wrongful death lawsuit. It's a terrible occasion for the family and it's stressful for the sheriffs. Up until 2008 when the Judiciary Committee granted these additional responsibilities to the Public Counsel's Office, people in county jails had one resource--the Jail Standards Board. The Jail Standards Board only meets on a quarterly basis, they have no enforcement authority, and without meaning any insult to the people who serve on that board, it is made up of jail administrators. So there is a certain element of the fox watching the chicken coop. Because it was not an adequate watchdog, we suggested we needed an independent and experienced authority to provide help for county jails when they're dealing with medical or mental health problems. I can tell you anecdotally that since the Ombudsman's Office has had authority over the county jails my office has almost stopped hearing from people with needs. It's clear that they've been effective in providing the counsel and advice to the county jails, that they have been a resource that is either resolving these problems or providing education at the front end so that the problems aren't even occurring. It has changed I can say my life by strong steps. I no longer fear when the phone rings that it's going to be another someone is going to die in the next two hours if you don't do something type of a call. It would be a step backwards to allow the elimination of the job duties. And so as Senator Lathrop was suggesting, if there's a fiscal change that needs to be made that will be painful. But please do not eliminate these duties. We know that there is a serious problem out there. Dodge County alone had four jail suicides in the years immediately leading up to the Ombudsman's Office finally taking authority. We've seen a sea change and we don't want to move backwards from that. Do you have any questions? [LB270]

SENATOR NELSON: Are there any questions for Ms. Miller? Seeing none, thank you very much. We will accept this report along with your written testimony for the record. Are there other proponents of LB270? [LB270]

SENATOR LANGEMEIER: Opponents; we're still on opponents. [LB270]

SENATOR NELSON: Oh, I'm sorry. Are there any other opponents, sorry, that wish to testify? Is there anyone in the neutral capacity? [LB270]

MARSHALL LUX: Good afternoon, Senators. My name is Marshall Lux, L-u-x. I'm the Ombudsman for the state of Nebraska, and I wanted to make myself available to testify in a neutral capacity on LB270 so that I could answer any questions that you might have about the impact that the bill would have on our office. I want to begin by thanking Senator Lathrop for his kind words about our office, and I would agree with what he and what the previous testifier has said that it would be possible for our office to continue to have the jurisdiction, the duties that are created in what was LB467 of 2008 with or without the staffing that we're talking about. It will require us to do things differently, but we have always had in our statutes some discretion with respect to what complaints we

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

Executive Board
March 03, 2011

take and which ones we actually handle. And we could begin to exercise that discretion in some of these cases and be able to manage our way through our caseload even without the staffing that we're talking about and still keep the jurisdictional aspects that we're involved in, in LB467. So that is I think the most important point that I would have to make with regard to the bill, and I'd be happy to answer any questions that you have. [LB270]

SENATOR NELSON: Are there any questions for Mr. Lux? Senator Lathrop. [LB270]

SENATOR LATHROP: Yeah, just very briefly, can you share with us to what extent do you...if we looked at your office as an investment in sparing the state or political subdivisions from claims by inmates or people who are in mental health facilities, can you share with us the extent to which you're able to defuse things that otherwise become claims or expensive lawsuits? [LB270]

MARSHALL LUX: That's very hard to quantify, Senator. And, in fact, I studied that about 20 years ago and was coauthor of an article in a professional journal on the subject. But it's very speculative; it's hard to do. I'd be happy to give you a copy of the article that I helped to write. But I'm sure we make a big difference in terms of heading off lawsuits against the state. [LB270]

SENATOR LATHROP: What's the frequency with which you conclude that somebody's concerns have merit and you alter the course of an incarceration or a stay? [LB270]

MARSHALL LUX: Well, generally my experience has been that about 40 percent of our cases that come or complaints that come to us are justified in full or in part. [LB270]

SENATOR LATHROP: So that might be a guy who is sitting down in the Douglas County Corrections Center and not getting medication for bipolar or something like that. [LB270]

MARSHALL LUX: That's correct. We have things like that, many things like that. [LB270]

SENATOR LATHROP: Okay. [LB270]

MARSHALL LUX: And with regard to the jail caseload, I've looked at some statistics on our caseload for jails last year and between 40 and 50 percent of our cases were medical or mental health cases so it's a big part of the caseload that we handle in terms of our jail complaints. [LB270]

SENATOR LATHROP: Okay, thank you. [LB270]

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

Executive Board
March 03, 2011

SENATOR NELSON: Thank you, Senator Lathrop. You answered one of my questions, Mr. Lux. What is the caseload from the county jail basically? [LB270]

MARSHALL LUX: Last year it was 204 cases. [LB270]

SENATOR NELSON: Two hundred forty (sic) cases from all over... [LB270]

MARSHALL LUX: Yes, sir, and my expectation is it's going to go up but very gradually. [LB270]

SENATOR NELSON: That's from all over Nebraska, is that correct? [LB270]

MARSHALL LUX: Um-hum, yes, sir. [LB270]

SENATOR NELSON: And you say 40 percent of them then are medical issues. [LB270]

MARSHALL LUX: Actually it was more than 40 percent, mental health and medical, most medical but some mental health. [LB270]

SENATOR NELSON: All right. Are there any other questions? Senator Karpisek. [LB270]

SENATOR KARPISEK: Thank you, Senator Nelson. Thank you, Mr. Lux. We...our office has had many dealings with your office and most of the time it's getting a hold of you to help an inmate. However, there are some times that I think are borderline. And I guess Wilber has an INS and federal holding facility. So what I see is that a lot of these are not Nebraska people we're holding them there on a federal charge. And so then we end up spending money on some of their trivial issues. Now I know that your people have done very well at sorting through them. And I think in the beginning it was a little bit not real good going, but it's gotten better. However, I do have an issue with...I don't have an issue with the health part. I guess my point is they're in jail and they got themselves in jail and they complain a lot and they just keep going up the ladder. I mean we see it in every prison. And I don't know that the services are really need for what a lot of it is. And I think it just eats up time in your office. Ninety percent of the time I come to you and you have helped out immensely, but I just feel that way. [LB270]

MARSHALL LUX: Can I address that just a minute? [LB270]

SENATOR KARPISEK: Sure. [LB270]

MARSHALL LUX: Some of the cases that we get are very important matters and not, you know, as I've mentioned the medical and the mental health issues. Some of them are even by my lights they're trivial issues. When we started out this process and I

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

Executive Board
March 03, 2011

viewed working with the counties, the jail administrators, and the sheriffs as something that was going to take a long time because we have to acclimate them to having someone from the state call them and ask them about these complaints. And I wanted to go slowly in doing that. But there were times when we got cases early on in this process when we started doing this in the middle of 2008 which were matters that I would agree were kind of small issues. And our reason for going ahead with those was because we were trying to introduce ourselves to the administrators involved. And so we felt that any complaint that we got was an opportunity to call the jail and talk to them to introduce ourselves to them. I can tell you that's not the way we're going to do it in the future. We've already slowed that down. But at the very beginning it was useful for us to follow up on all the complaints just so we could get our foot in the door and especially if it was a minor issue, something that wasn't too hairy, that would be a good thing to make the first call on. So that may be some of what you've seen. [LB270]

SENATOR KARPISEK: That first call got me a lot of calls (laugh). [LB270]

MARSHALL LUX: (Laugh) I'm sorry about that, Senator. You should have visited with me about that. [LB270]

SENATOR KARPISEK: Thank you, Mr. Lux. Thank you, Senator Nelson. [LB270]

SENATOR NELSON: Yes, Senator Langemeier. [LB270]

SENATOR LANGEMEIER: Thank you, Senator Nelson. You said last year you had 240? [LB270]

MARSHALL LUX: 204. [LB270]

SENATOR LANGEMEIER: 204. [LB270]

MARSHALL LUX: Yes, sir. [LB270]

SENATOR LANGEMEIER: And what's your total budget? [LB270]

MARSHALL LUX: It's a bit over a million dollars. [LB270]

SENATOR LANGEMEIER: A million dollars? [LB270]

MARSHALL LUX: Um-hum. [LB270]

SENATOR LANGEMEIER: And of that 204 how many came from these counties? [LB270]

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

Executive Board
March 03, 2011

MARSHALL LUX: That's the 204 cases. That's the total... [LB270]

SENATOR LANGEMEIER: What's the total workload in your office? [LB270]

MARSHALL LUX: The total caseload is about 2,200 cases a year. [LB270]

SENATOR LANGEMEIER: Okay. That's what I wanted. Thank you. [LB270]

SENATOR NELSON: Are there other questions for Mr. Lux? Thank you, Mr. Lux. I should say that we have a letter from the Nebraska Association of County Officials from Larry Dix saying that they are in a neutral position on this (Exhibit 4). And I need to back up and say that we did have two letters of opposition, one from the Nebraska Psychological Association, Stacy Bliss Fudge (Exhibit 5); and the other in opposition from the Nebraska Advocacy Services (Exhibit 6) and these will all be made part of the record. Yes, Senator Langemeier. [LB270]

SENATOR LANGEMEIER: One more. As you keep track of these cases, you obviously keep track of how much time you put towards these 204 cases. And 40 percent of those had something wrong by the counties? [LB270]

MARSHALL LUX: Um-hum. [LB270]

SENATOR LANGEMEIER: Why don't we bill the counties back our time if they're the one in error? [LB270]

MARSHALL LUX: Sounds like an interesting idea. That's a subject that's never come up before frankly, Senator. [LB270]

SENATOR LANGEMEIER: Okay, thanks. [LB270]

SENATOR NELSON: Any other questions? Well, thank you, Mr. Lux. [LB270]

MARSHALL LUX: Thank you. [LB270]

SENATOR NELSON: Is there anyone else testifying in a neutral position? If not, then, Senator Wightman, would you like to close on LB270? [LB270]

SENATOR WIGHTMAN: I'll waive. [LB270]

SENATOR NELSON: Are you waiving closing? All right. With that waiver then we will close the hearing on LB270 and we will move on to LB271, again introduced by Senator Wightman so you're welcome to open on LB271, Senator. [LB270]

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Transcriber's Office

Executive Board
March 03, 2011

SENATOR WIGHTMAN: Thank you, Senator Nelson, members of the committee. My name is John Wightman, spelled W-i-g-h-t-m-a-n. I represent the 36th Legislative District. I am here today as Chairperson of the Executive Board to introduce LB271. LB271 is the second of the two bills that I'm introducing that came about as part of the LR542 process. LB271 would repeal a specific statute that establishes the Office of Legislative Research within the Legislative Council and eliminates other statutory references to the position of Director of Research of the Legislature. I would point out that if this bill were to advance and ultimately pass the Executive Board could still continue all or part of the functions of the Research Division under a general statutory provision giving the Executive Board the authority to hire personnel to carry out the activities of the Legislature. And with LB270, I have asked Nancy Cyr, who is acting director of Legislative Research, to come up during the neutral portion of our hearing to address any questions. With regard to the fiscal note, it pretty much reads the same I think as Senator Christensen did on LB86, that because there's no repeal or no mandatory provisions in LB271 that would eliminate the possibility of Legislative Research or other duties that they perform under other sections of our statute that it becomes virtually impossible to determine what fiscal impact we would have because it would depend upon other actions of the Legislature and perhaps this committee. With that, I would be happy to try to answer any questions. But again, the specific questions probably will be better responded to by Nancy Cyr. [LB271]

SENATOR NELSON: Are there any questions for Senator Wightman? Thank you, Senator. [LB271]

SENATOR WIGHTMAN: Thank you. [LB271]

SENATOR NELSON: Is there anyone here to testify in favor of LB271? Is anyone here in opposition to LB271? [LB271]

LYNN REX: Senator, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. Our board feels very strongly about this bill as well as LB86, that we do need to have three branches of government, three effective branches of government. And we really encourage you not to do anything to dismantle the legislative branch because you are the policymakers. It is one...as Senator Fischer knows, we're a strong supporter of roads and the Department of Roads. But it's one thing to make two cuts of two employees in the Department of Roads; it's quite another to eliminate two folks in Joanne Pepperl's office when those folks are working on weekends and nights. And I know that because we work with them. I know this bill, by the way, doesn't impact them but the same thing with the Research Division. And I can't tell you the number of senators with whom we've worked over the years that needed information that was not municipal-related information. We didn't have it. And we always referenced them to go to the Research Division and they'd get it and they'd get it promptly. This is very important, that whether it's transcribers or

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

Executive Board
March 03, 2011

whatever that you make sure that...because you're the ones that are left now. With term limits, you are the ones left to protect this branch of government. That is, I think, your fundamental job because you are the ones that set the rules for the rest of us in the state of Nebraska. And it's important that everyone have access to the legislative process. In order to do that and in order for you to have your jobs, you need to be in a position where you can rely on an independent source of information, not just the lobbyists. With that, I'd be happy to answer any questions you have, other than to say this. As a reminder, the proponents of term limits said that the reason for term limits was to return power to people. The reason was to get power away from the lobbyists and special interest groups. Term limits does just the opposite, not that I have any power. I don't. (Laughter) But believe me--we wouldn't be getting cuts in state aid if I did. But with that, I'd be happy to answer any questions you have. [LB271]

SENATOR NELSON: Thank you. You speak with a history of experience and authority so thank you, Ms. Rex. Are there questions for Lynn Rex? All right, thank you very much. [LB271]

LYNN REX: Thank you for your consideration. [LB271]

SENATOR NELSON: Are there others testifying in opposition? We do have a letter of opposition here to LB271 from the American Communications Group, Richard A. Lombardi, so that will be made part of the record (Exhibit 7). Is there anyone testifying in a neutral capacity? Nancy. [LB271]

NANCY CYR: Good afternoon. My name is Nancy Cyr, that's C-y-r, and I'm the acting director of the Legislative Research Office, a position I've had since January 3. So I'm here to...during my relatively short tenure, I have tried to reach out to you in terms of trying to show you what the Research Office does, what we can offer the Legislature, and we have discussed that individually quite a bit. So I don't necessarily want to repeat things that we've already talked about. I certainly will if you would like, but I would be more interested in answering your questions. [LB271]

SENATOR NELSON: Are there questions for Ms. Cyr? Senator Karpisek. [LB271]

SENATOR KARPISEK: Thank you, Senator Nelson. Ms. Cyr, thank you. From the beginning of session until now, your staff looks much different. [LB271]

NANCY CYR: That's correct. [LB271]

SENATOR KARPISEK: Who...how many people are...what's your staff look like now? [LB271]

NANCY CYR: Currently, right now we are staffed by six people and that includes myself

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

Executive Board
March 03, 2011

as the acting director/legal counsel because that was what I was doing before and I continue to do those duties. We have two research analysts; one librarian; one administrative assistant. Currently we have a GIS analyst who is on staff for purposes of redistricting, and I believe funding is through December 31 of 2011, I think. And now we've just hired a GIS assistant who works 30 hours a week. She started just this week, March 1. She is here with us March 1 through June 30 and that's also to help with the redistricting process. [LB271]

SENATOR KARPISEK: So how many people are you less? [LB271]

NANCY CYR: In 2010 we were staffed by nine people so we're less three. [LB271]

SENATOR KARPISEK: Now are you still...I know you've been busy, but are... [LB271]

NANCY CYR: Yes. [LB271]

SENATOR KARPISEK: You seem to be keeping up with... [LB271]

NANCY CYR: We are keeping up. Between the four of us, and when I say four of us, I'm talking about myself, the two research analysts, and our librarian, we have responded in January and February to 155 requests for information. And so we have hit the ground running. We are busy from 8:00 to 5:00, but I think that's what you expect and that's what you want from us. [LB271]

SENATOR KARPISEK: How does that 155 compare to other sessions? [LB271]

NANCY CYR: I actually didn't go back and compare that number to other sessions. I can tell you in the January number, for example, for just research requests was up over like 25 in number from just December. So it's running above what had been prior, but I didn't go back, to tell you the truth, I didn't get total numbers. I can if you'd like me to. [LB271]

SENATOR KARPISEK: It would be interesting to know. Do requests seem to be better quality? We had a little issue with some of the requests that didn't seem to have to go to your office. [LB271]

NANCY CYR: And we've talked about this in our individual discussions, and I guess quality is a relative term in terms of the beholder as far as since you all are allowed to hire your own staffs, you all have reasons for why you hire the staff you do. And so I guess I don't want to be the judge of whether it's quality or not quality. There are a variety of research requests that we get from legal opinions or memorandums to looking historically at policy issues, seeing how many pieces of legislation have been introduced in the past to asking for a Nebraska statute or getting a Nebraska case or an Attorney

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

Executive Board
March 03, 2011

General's Opinion. Now so I guess you would say I think my legislative staffer should be able to do that. And I would agree with that although there are times, for example, when your staffer has a hearing to go to or is juggling a lot of issues at one time and frankly just doesn't have the time. It's not a lack of quality, a lack of knowledge. It's at that point in time it's a lack of time. And so that's where we come in because our full job is to help you and your staffs do your job. So in terms of could your staffer do that? Sure. But because of a variety of things, he or she might not be able to at that moment. So in terms of quality, I don't...that's not... [LB271]

SENATOR KARPISEK: I couldn't find the right word anyway, but I know... [LB271]

NANCY CYR: In terms of...we try and respond to needs and then that... [LB271]

SENATOR KARPISEK: And I guess I feel it's part of this committee's duty to make sure that senators do try to do the right thing there and keep it where it needs to go. And time, sure. I don't know that, anyway. I think that's our...and I do appreciate that you have been around. I will say there are things that I didn't know that you did that you do, and I'd say that's why your numbers are up. [LB271]

NANCY CYR: (Laugh) Well, as I said, I think that what we discovered when I did reach out to you, I'd like to think that I would have reached out to you to introduce myself and build some bridges and some relationships regardless of the introduction of LB271. But I will say that LB271 certainly spurred on the effort. And while it was somewhat disheartening to see the introduction of the bill, I'm really trying to view it as an opportunity to build some bridges, establish some relationships, let you know what we can do for you. And, I mean, I think we can play and do play an important role in the legislative process. [LB271]

SENATOR NELSON: Senator Langemeier. [LB271]

SENATOR KARPISEK: Thank you, Senator Nelson. [LB271]

SENATOR LANGEMEIER: Thank you, Senator Nelson. I can tell you from my first six years here I think I've been in your office once. Now with redistricting, you have me in there hourly. With the four people, I'm going to exclude the two because they're redistricting staff and their life span is limited. [LB271]

NANCY CYR: Right. [LB271]

SENATOR LANGEMEIER: With the four you have now and the requests you've gotten so far, do you think you're keeping up just as well as you did before? [LB271]

NANCY CYR: Yes. [LB271]

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

Executive Board
March 03, 2011

SENATOR LANGEMEIER: Okay. The other thing I think comes upon you and us, and you and I have talked about that and I think you've talked about it with everybody on the committee is you've kind of given us a blueprint of where you think this office could go. I think there's some liability for us to educate you and your department of what we think you ought to be doing as well as you telling us what you think you might be doing, whether it's a discussion we've had about requiring our staff, even though we hire them ourselves, but to require some kind of an in-house continuing education program so we make sure our LAs, no offense, know what LAs are supposed to do and AAs know what AAs are supposed to do in this building, a base core, then they have more stuff that their senator asks them to do. But I think that has some merit in the future as we develop that. [LB271]

NANCY CYR: Right. And we have, you know, we have discussed that and I think the Research Office is well positioned to respond to that in terms of some of the one-on-one orientations we have done as a matter of our practice in the past, but also with the evolution of, well, the evolution of Webinars, in particular, from NCSL. I have some experience with NCSL. Many of you know I'm finishing out my three-year term as a staff officer with the organization. But one of the main things we have done in the past couple of years is offer Webinars as a means of professional development to legislative staff. And last year, with the help of other staffers here in the Legislature, we did three Webinars that offered 3.5 hours of free continuing legal education for staff here. And I don't know the total numbers, I know one, for example, was attended by 33 staffers, and we have many more staffers that could attend. There are things that we were gearing those Webinars towards continuing legal education. Our auditors took advantage of it for purposes of their professional development requirements. But I think legislative staff in general who did attend benefited from the presentation. And, for example, there's another one that they're planning this spring on drafting of criminal laws that I think would benefit all of our legislative staff. And it would be something that we could do, you know, organize a hearing room and make sure that we offer it to everyone. But I think that would be a good thing to do. [LB271]

SENATOR NELSON: Thank you. Senator Karpisek and I came in at the same time four years ago and I don't know about him, but I probably have never fully appreciated over the last four years what's available and what you can do for us. And my question is, have you contacted the six new senators who came in recently and made sure... [LB271]

NANCY CYR: Yes. [LB271]

SENATOR NELSON: ...they knew what's available? [LB271]

NANCY CYR: They were after you. They were like second on my list (laugh). [LB271]

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

Executive Board
March 03, 2011

SENATOR NELSON: All right. [LB271]

NANCY CYR: No, we have...I've talked to, during this two-month period, I've talked to probably, well, I guess I couldn't quantify how many legislators and staffers for their...and my desire to reach out to them and explain what Research can do. And in terms of getting their feedback on what they expect from a Research Office and while sometimes some of the comments, it's hard to hear criticism, but again, I think all the feedback that we got was constructive. And hopefully we can respond and step up to the plate. I think we have. I do want to give a shout out to the employees that are down in that Research Office because during this two-month period they have really stepped up to the plate and they've done a great job. But we've done something for every new senator so far in these two months, so we have reached out to them and I think we've met their needs. [LB271]

SENATOR NELSON: Good. Are there any other questions? Thank you, Ms. Cyr. [LB271]

NANCY CYR: You're welcome. Thank you. [LB271]

SENATOR NELSON: Any other testimony in a neutral capacity? Anyone else wishing to testify? If not, then, Senator Wightman... [LB271]

SENATOR WIGHTMAN: I'd like to take one minute. [LB271]

SENATOR NELSON: You will take...you're given...in light of the hour, you're given one minute to close (laugh). [LB271]

SENATOR WIGHTMAN: Well, I just wanted to discuss and I think it's been extremely helpful having both Marshall Lux and Nancy on this particular bill here. I think these really perform or create an umbrella that we can act under that we need to look at some fiscal information before we take that action. And I know I'm going to meet with Senator Heidemann, maybe Janice and some members of the Fiscal staff to see what various components of this might result in as far as savings. So with that, that's all I had to say in closing. [LB271]

SENATOR NELSON: Thank you, Senator Wightman. We'll close the hearing then on LB271 and I'll relinquish control of the Chair to if you have anything else you want to... [LB271]

SENATOR WIGHTMAN: Thank you. No, I think merely, unless we have a motion, merely to close. [LB271]

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

Executive Board
March 03, 2011

SENATOR NELSON: All right then. We are adjourned. Thank you. [LB271]