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Appropriations Committee
March 12, 2013

[AGENCY 5]

MIKE HEAVICAN: (Exhibits 8 and 9) Good afternoon, Chairman Mello and members of the committee. My name is Mike Heavican. Mike is spelled M-i-k-e and Heavican is spelled H-e-a-v-i-c-a-n. I am the Chief Justice of the Nebraska Supreme Court and here to testify on the committee's preliminary recommendations. Specifically, I'm here to talk to you today to request that the committee add the following items from our budget request into your final recommendations. But first I want to start by saying, Chairman Mello, I know that you deal with agencies all the time. But as you know, we are a separate branch of government and we always like to note that, and it is obviously of particular significance. The changes we would like you to consider are, first of all, funding for probation personnel initiatives; secondly, increases in personal services limits in selected budget programs; and third, continued estimated cash fund spending authority. In addition, I'm here to answer any questions the committee may have regarding probation's juvenile services delivery project and the Governor's deficit recommendation regarding that particular issue. Before I go into specifics, I would like to provide some background behind these requests. If there's a silver lining to the budget crisis over the last four years it is that the crisis accelerated efforts within the judicial branch to reengineer the court system for the 21st century and to continue the transformation of the probation system to one that is evidence-based and risk-based. This is a multiyear, multibiennium effort. Our budget request represents the next step in that process, and these requests are part of those efforts. First of all, probation. The first item is probation personnel initiatives. Specifically, I request that the committee fund three requests at a total cost of approximately \$502,000 for fiscal year '13-14 and \$512,000 for fiscal year '14-15. No new positions are being added. These are requests to increase compensation of existing staff. I would like to speak to each one in more detail. First is probation officer reclassification for approximately \$277,000 for the first year and \$284,000 for the second year. As noted, the probation system has been engaged in a multiyear effort to shift resources so that supervision and services are concentrated on probationers with the highest risk to reoffend; in other words, shifting

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resources to maximize public safety. And you should have a...we gave you a number of sort of PowerPoint items for you there. And first of all, after the testimony highlights, there should be a PowerPoint highlight comparing what it costs to have one well-trained probation employee handling these high-risk folks as opposed to what it costs to put somebody in prison for a given day, and \$6.23 for the probation officers and \$77.21 to put that individual into prison. One of the ways that this has been achieved is the creation of a specialized probation officer to work with high-risk probationers. These officers must have additional skills and knowledge in order to effectively supervise probationers. The request seeks to achieve three goals: adequately compensate specialized officers for their enhanced skills and knowledge; second, provide an incentive for regular probation officers to become more skilled; and third, attempt to impact turnover and salary disparity issues. And then you've got a handout in regard to probation officers' starting salary comparisons particularly in regard to Nebraska, Iowa, and surrounding states. And we look pretty negative in comparison to almost all of those states. Second, probation field supervisory reclassification at approximately \$133,000 for the first year and \$136,000 for the second year. Currently, if you are a probation officer manager in an office with 9 people, or an office manager in an office with 90 or more people, you are paid the same, although clearly the managerial skills needed in each office are much different. Probation launched the initiative several years ago with chief probation officer positions in order to adjust compensation based primarily on the number of employees supervised. This request adjusts the compensation for the other supervisory positions and completes this initiative. Finally, juvenile intake compensation at approximately \$92,000 for each year. By statute, when law enforcement takes a juvenile into custody, a probation officer is required to determine whether the juvenile should be detained or released. During any given week this may happen at 3 a.m. in the morning or on Sunday afternoon, for example. Intake duty is rotated among the probation officers so that an officer is available at all times. In order to compensate for this, officers are given comp time, currently, which is unpaid leave similar to vacation leave. Unfortunately, in some cases, the consequence of this practice is that comp time accrues to the point that some officers have a hard time making sure that they can

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adequately...excuse me, making sure that they are adequately staffed because probation officers are using the leave that they earned. This request is funding to provide paid overtime rather than comp time, with the goal of reducing comp time and increasing the availability of staff. In other words, there would be options for the employee. Next I want to speak to you about the personal services limit. This is General Fund money for the...not probation staff but for the court staff, some of which you heard testimony about in the bill that just preceded this. The Supreme Court's second major request concerns the personal services limit within our request for reappropriation of our General Fund spending authority. The committee's preliminary recommendation included an increase in our personal services limit of \$350,000 for Program 52, court operations. And excuse me, I was wrong there. And \$75,000 for Program 67. That's the probation operations. I'm requesting that to be increased to \$750,000 and \$100,000 respectively. I very much appreciate the committee's support for reappropriation. As you know, we're carrying over a lot of money from this current biennium. The Supreme Court worked very hard over the last two bienniums to reduce expenditures and stay within the budget limitations that affected everyone in state government. Judges and staff kept vacancies open for months, eliminated positions, reduced travel, and worked together to get through the budget crunch. I'm pleased the committee recognized that reappropriation increases, the incentive to save, and reduce expenditures. Now I'd like to explain the reasons for reappropriation and our request for an increase in the personal services limit. As I mentioned in my opening, the latest budget crisis made it clear that the judicial branch must change. We've made significant technology advances in recent years and that has allowed us to save...or to use staff in rural areas to assist with case processing in urban counties. We have been able to reduce the need for additional staff as well as retain experienced, skilled employees in rural courts which allows us to keep those offices open. We now wish to use our reappropriated funds to further expand job duties for current employees and compensate them for assuming new duties. We have calculated that employees of 57 county courts will meet our criteria and be eligible to apply for extra duty compensation. We hope to offer salary increases for these additional duties of 8 percent on average. In addition, we want to

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compensate employees who work in courts with high volume caseloads that exceed normal caseload expectations. And you heard about that some from Judge...I'm drawing a blank right now. From the judge from Lancaster County. And I know you well...Judge Yardley, as a matter of fact. Approximately 142 current employees are in this category and we hope to offer those employees a 5 percent salary increase. We will also be reclassifying certain employees and training them to do specialized work in the probate and juvenile areas with an appropriate salary increase. Clerks who take on responsibility for centralized collection of outstanding fines and costs will also receive additional compensation. Upon full implementation the project could impact 250 current employees of the county court system, and you've got some salary comparisons for you on this issue. Again, no new positions are being added. Instead we will be increasing duties for employees who wish to participate and are selected, and that is why we need the additional personal services limitation in our court operations budget program. On a related topic, an area in which we will be adding one position is court interpreting. The Supreme Court currently has two interpreter coordinators who not only translate but have administrative duties such as arranging for interpreters in other languages. The committee's preliminary recommendation included funding for a third coordinator that we hope to place in western Nebraska. Our request also included funding to annualize the salaries of our other two coordinators. Funding will be provided through the General Fund reappropriation. However, we do request an increase in the personal services limit for Program 52 of \$9,940 for fiscal year '13-14 and \$12,440 for fiscal year '14-15 to provide for these existing positions. Then cash fund authority. Estimated cash fund authority was given to the Supreme Court during the last biennium. We are requesting the same authority for the next biennium. The Fiscal Office informed us that this is an issue the committee requested that we address. The Supreme Court requests continuation of this flexibility to implement projects started in recent years. A couple of examples are an evaluation of the Parenting Act requested by the previous Speaker of the Legislature, Speaker Flood; an establishment of a probation reporting center in Scottsbluff. Both of these require cash-funding spending authority at higher than previous levels. And finally, the juvenile services delivery project. Our last topic is also

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an issue we were informed the committee wanted us to address, and that is the Governor's recommendation for the deficit bill of a reduction of \$2 million for the Nebraska juvenile service delivery project administered by probation. We request instead that the amount be reduced by \$1.5 million. We agree with the Governor that the appropriation needed this fiscal year for the project can be reduced. We just differ on the specific amount. Clearly, the Legislature saw the positive benefits of the project when it passed LB985 last year. This is the start-up year for the project under LB985 and the appropriation was based on the best information available at the time. As the year has progressed, we recognize that not all of the appropriation is needed. However, to have services fully available for juveniles, slightly more funding should be retained than what the Governor recommended. In closing, I want to thank you again for the consideration you've made of our budget requests and I would be happy to try and answer any questions that you have. [AGENCY 5]

SENATOR MELLO: Thank you, Mr. Chief Justice. Are there any questions from the committee? Senator Larson. [AGENCY 5]

SENATOR LARSON: Thank you, Chief, and thank you for coming in. And I know we've had discussions about...I'll start on the increasing of the duties with the reappropriation of county clerk workers. Is the court going to make a concentrated effort to make sure a lot of the...a majority of those that you are increasing duties are for those that are in the county courts in rural Nebraska, that way we can help to continue to keep those courts open? Because I know you've expressed concerns about their workload out there and to where it's not the workload. And I've obviously expressed concerns to you about making sure these courts stay open. Is that kind of the rationale to increase it out in rural Nebraska to ensure...? [AGENCY 5]

MIKE HEAVICAN: That is the rationale. And with technology that we have today we're able to do that kind of sharing of the caseload. And we think...we've already obviously begun to do that and we think it is something that works quite well and addresses some

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of your concerns as well as the concerns that we have in regard to the urban areas and that you heard Judge Yardley talk about. [AGENCY 5]

SENATOR LARSON: I appreciate that and that's something that I'll continue to watch to ensure and, you know, I'm in support of that and I want to make sure that it is...those are the ones that are continuing or working on getting those new duties so we can keep those...at least those people in the court offices in their local courthouses in rural Nebraska. More...and you might not be able to answer my next question...well, the next one you...you're...it's the court's job to oversee all the lawyers in the state of Nebraska in terms of making sure they comply and behave and... [AGENCY 5]

MIKE HEAVICAN: Discipline. [AGENCY 5]

SENATOR LARSON: You can answer that one. [AGENCY 5]

MIKE HEAVICAN: And the answer is yes. [AGENCY 5]

SENATOR LARSON: This next one, do you know, do you have any idea of how much the court spends on the administration of yearly CLEs? Is that coming out of General Funds or is that cash-funded or...? [AGENCY 5]

MIKE HEAVICAN: That is all cash-funded and paid for by lawyers, either their annual dues or the system that's set up to fund continuing education. [AGENCY 5]

SENATOR LARSON: Okay. So no General Funds are... [AGENCY 5]

MIKE HEAVICAN: No General Funds at all. [AGENCY 5]

SENATOR LARSON: I know you like to...as you've said to me and you said today while you were sitting down, you love to tout the separate branch of government and the

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higher authority. Why--and again this is a difficult question--why does the court see fit to mandate lawyers join a nongovernmental organization such as the state bar and take money out of those lawyers' pockets? I mean, what is the rationale, the mandate that lawyers have to join an organization they might not necessarily believe in that has nothing to do with the court or the state agency in general? [AGENCY 5]

MIKE HEAVICAN: Well, the...as you are aware, there are...there's a petition pending about that in front of the court now, and a lawsuit pending in federal court. [AGENCY 5]

SENATOR LARSON: I'm aware of both. [AGENCY 5]

MIKE HEAVICAN: Right. But the court established the mandatory bar association way back in the 1930s under the inherent authority of the court to supervise the courts and the folks who practice in the courts. And that's where that authority has come from, and... [AGENCY 5]

SENATOR LARSON: So they were set up as a supervisory role that now the Supreme Court itself has and not...so the state bar no longer has the supervisory authority. [AGENCY 5]

MIKE HEAVICAN: Well, the ultimate authority to make lawyers participate in the state bar and pay state bar dues comes from the Nebraska Supreme Court in their constitutional and inherent authority to regulate the practice of law. [AGENCY 5]

SENATOR LARSON: And I guess...you kind of brought up the point that the state bar was there to, you know, take on the CLEs or the discipline of the lawyers; but now that's all under the Supreme Court, correct? [AGENCY 5]

MIKE HEAVICAN: Well, over the years it's gone back and forth. Many years ago it was all handled by the Clerk of the Supreme Court. Then at some point in time, I don't know

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the exact date, the bar association took over discipline and a number of other functions. Back in the 1990s, the Supreme Court took discipline back from the bar association generally based on the idea that those being disciplined should not be running the show, if you will. And so that process was taken over by the Nebraska Supreme Court. And then very recently within the law, three or four...well, actually it goes back a little bit further than that, but the bar association petitioned the court to make lawyers have mandatory continuing legal education. Lawyers were probably the only professional organization in the state that didn't have some mandatory continuing legal education. We decided to grant that request but we put that authority under the court rather than under the bar association, again generally on the basis that discipline belongs with the court and not with the bar association. [AGENCY 5]

SENATOR LARSON: I appreciate those answers. And like I said, obviously you can see where I'm going with the questioning. And I just have an issue with the...you talk a lot of how you're separate from us and the stress...how much...how important you find that. And I just find it somewhat, you know, hypocritical you guys want to separate yourself from us but you mandate to other lawyers what they can and can't do with their own...you know, their own personal money, and they have to join an organization that they may not necessarily always agree with when they...I see at least one lobbyist and a former president of the state bar sitting here lobbying for lawyers, more than likely today, and not everyone of that organization agrees with what they may or may not be doing but yet they're still forced to pay those dues. [AGENCY 5]

MIKE HEAVICAN: I understand that, Senator. And as I noted, that petition is in front of the court now. [AGENCY 5]

SENATOR LARSON: Thank you. [AGENCY 5]

SENATOR MELLO: Senator Harms. [AGENCY 5]

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SENATOR HARMS: Thank you very much for coming today and testifying. I appreciate what you do for the Nebraska Supreme Court. I know the challenges you have because funding has not always been the best. I've been on this committee for seven years and we've never funded you the best of...well enough to be able to accomplish a lot of the things you want to do. I'd like to talk a little bit about interpreters, and let's talk a little bit about...first of all, how many different languages last year were spoken in the courts?
[AGENCY 5]

MIKE HEAVICAN: I'm embarrassed to say I don't know the exact total but we're talking more than 20 different languages. [AGENCY 5]

SENATOR HARMS: Okay. I guess the concern that I have is that we know the federal government is really putting a lot of pressure on the states now, saying you have to have equal access to the court system, and language is a part of that. And with 20 or 30 or 40 different languages being spoken in the courts, let's talk a little bit about the interpreters, the kind of problems you're having with the interpreters, how that fits into rural Nebraska and the issues you're having, and then how that fits into technology and how we're trying to do this, and the problems that we're going to have and we're having now and what you're going to have in the future if we don't start to probably put more dollars into this particular area. Could you help maybe my colleagues and myself understand that a little better? [AGENCY 5]

MIKE HEAVICAN: I greatly appreciate the question. First of all, in reference to the federal government, the Justice Department is monitoring all of the state courts to make sure that there is adequate provision of interpreter services not just in the courts but probation services and related kinds of court services. Nebraska actually has a very broad statute requiring us to have interpreters at virtually all of those stages, not just in a criminal case but in civil cases also. And we've struggled to do that over the years. And the history of this is, is this used to be paid by counties. That funding was uneven and inadequate, and 10 or 15 years ago the Legislature saw fit to move that funding to

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the court system, and we've tried real hard to provide adequate interpreter services since that period of time. Our judges...some of our judges, at least, were very innovative and started using technology in this area early on, and I think particularly of Judge McDermott out in Schuyler, Nebraska, who's an example of a rural area that had a lot of demands for foreign language interpreter services. And this often happens in communities that have packing plants or other large industrial plants or industrial populations. So over the years, first of all, we saw lots of need for Spanish, but that has evolved into really kind of remote and unique Central American languages, Indian dialect languages, languages from Africa, as different waves of these folks have come into our packing plants and other industrial facilities; so that many times has to be supplied long distance, and that's where technology comes in. We have a certification program for interpreters. We have lots of certified Spanish interpreters. We have certified interpreters for Mandarin Chinese and maybe a couple of other languages, but it's very difficult to get certified interpreters for many of these languages. We depend heavily on the National Center for State Courts and the consortium they have put together to certify interpreters for the courts and to find interpreters in other ways. So lots of this has to be done long distance. Lots of this has to be done using technology. It is expensive. It has gone up year after year. You have generally seen fit to fund our requests in this area and we would appreciate that you continue to do that. [AGENCY 5]

SENATOR HARMS: Do you feel that we have the basic system now established or you're beginning to feel a little comfortable with where we are with the funding in that aspect and making sure that we're covering the courts the way we should cover them? [AGENCY 5]

MIKE HEAVICAN: We certainly have the basic system in place much more better than we did...much more better? Much better than we did a couple of years ago. [AGENCY 5]

SENATOR HARMS: More better is all right with me. (Laughter) [AGENCY 5]

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MIKE HEAVICAN: At one point in my life I was an English major; I was an English teacher. (Laugh) But that is something we have to work on, and the supervisory positions that we put in place recently are extremely important in this area because before we were really trying to do this with an inadequate supervision basis. [AGENCY 5]

SENATOR HARMS: I know that in visiting with some of the judges, it's changed their courtroom and they've really struggled a little bit of having to make that adjustment. And some of them, even tying into technology, is a real--I don't mean this in a negative sense--is a real challenge, particularly if they're my age. [AGENCY 5]

MIKE HEAVICAN: Right. [AGENCY 5]

SENATOR HARMS: I can really understand that. But the judges tell me that it's really hard to change it so much that you've got someone that's an interpreter on one side trying to help you interpret what...and I don't...I have to applaud them because I don't know how they do it, to be honest with you. It's really tough. And some of the dialects, as I understand it, just to find out. There's some of the people who come from Africa, you have to show them pictures to try to get a feel for maybe what dialect this is; then you can maybe find an interpreter. I applaud where you're going and I just think as we look at this in the future I think we're going to have to understand that we're going to have to continue to put dollars there to make sure that we can cover the courts. And I worry a lot about rural Nebraska, and that's where I'm from; and the face of rural Nebraska is changing tremendously. We have just more...we have different kinds of languages being spoken, more people are moving in from Brazil all across the nation, because they have jobs. And that growth is going to continue and it's going to make it more difficult for the courts. I just wanted to make sure that we're making the progress that we need to make and you feel comfortable with where we are in that particular area, because it's going to be a major issue for us in the future. [AGENCY 5]

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MIKE HEAVICAN: We are very appreciative of your support. We feel comfortable in how we built this up. But as you noted, this is going to continue and it's going to be a big budget item. [AGENCY 5]

SENATOR HARMS: Well, thank you very much. [AGENCY 5]

MIKE HEAVICAN: Thank you. [AGENCY 5]

SENATOR MELLO: Senator Bolz. [AGENCY 5]

SENATOR BOLZ: Good afternoon. I found your comments about the probation positions compelling. I think in my district this might be seen as really a public safety issue and protecting the communities that in my district I know are very highly valued. My question is, can you explain to me in a little bit more depth some of the challenges you have in building that pool of workers who are willing to do that work? Can you just flesh that out for me a little bit? [AGENCY 5]

MIKE HEAVICAN: Yes. And I appreciate the question. I think you've got a handout in regard to some of the real challenges we have with providing skilled probation officers and keeping skilled probation officers for the highest-risk defendants out there. We are not competitive with the state of Iowa, most especially. So many of those really high-risk folks are in the Omaha area and so our probation officers are hired away by Iowa. We're not competitive with some other states too. We are not competitive with the federal government. And they have probation officers in Nebraska and they try to take our very best people. So when we're talking about probation and I think this is important for you and these are policy decisions that you have to make, but one of the things that is in the background of what you're doing this year and in future years is whether or not you have to build another prison in Nebraska. And your only real alternative to that is to try and detour, divert, some folks before they get to the prison system, and you really have

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no option other than probation in Nebraska. We are the only group that does any of these presentencing alternatives for judges. Judges will not sentence people to probation as opposed to prison if they do not have confidence in the people who are going to be supervising these folks on the front lines, because no judge wants to have his or her name on the front page of the World-Herald or the Journal Star or the Scottsbluff Herald as being the judge that released some prisoner to a community that does something then atrocious in the community. So we have worked very hard. And Ellen Brokofsky is here and she's the person in charge of probation in Nebraska, but she's worked real hard to make sure that people, probation officers supervising these high-risk people are probation officers who have experience and skill so that they can do the job. That takes money and that takes a system that does not take the people who just got out of college and say, okay, this is your first job, you get the worst job we have--that's trying to supervise these high-risk people. We're trying to do it the other way around and make sure it's our experienced people who do that. So that's why we want to fund these salary positions. [AGENCY 5]

SENATOR BOLZ: I appreciate that. And just to make it crystal-clear in my mind, we heard earlier that there are about 1,000 folks in our correction system who are parole eligible. Would this strategy also ease some pressure and maybe make some room in the parole system for some of those lower security folks to get some of these services as well? [AGENCY 5]

MIKE HEAVICAN: Well, we don't do parole. Corrections does parole. We try to cooperate with corrections as much as possible when they parole people out into the counties and so forth so that they can...if we can share responsibilities with them, we try and do that. But probation really tries to catch the people up-front and keep as many people from going to prison as possible, and that means taking risks. A good probation system would catch the people who are now nonviolent, eligible for parole. Maybe they would never have had to go into the prison system to begin with. And if we had had an adequate probation program and they had never gone into the prison system, perhaps

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they wouldn't be as big a risk now that they're coming out. [AGENCY 5]

SENATOR BOLZ: That's helpful. Would it be fair to say, Chief Justice, that the reclassification would make our probation system more better? (Laughter) [AGENCY 5]

MIKE HEAVICAN: Yes. It would be fair to say that. I've heard people use that phrase before. (Laughter) [AGENCY 5]

SENATOR BOLZ: Very good. Very good. [AGENCY 5]

SENATOR MELLO: Senator Nelson. [AGENCY 5]

SENATOR NELSON: Thank you, Senator Mello. Thank you, Chief. I'm looking at your handout here, if you have a copy of that. I'm just...you've got the one-day cost for the high-risk supervision, that's CBI--community-based intervention. The next page you show two columns there. You show a probation officer and then a community-based intervention probation officer. What are we talking about here? Do we have both of those? [AGENCY 5]

MIKE HEAVICAN: Yeah. The community-based intervention probation officer is the one I was really talking about--the experienced people that we want to give the (inaudible) salary. [AGENCY 5]

SENATOR NELSON: Okay. So those would be new positions or just increase the salaries of existing? [AGENCY 5]

MIKE HEAVICAN: Increase the salary of existing folks. Yeah. [AGENCY 5]

SENATOR NELSON: Okay. But does a probation officer, what I have known traditionally as a probation officer, do different things than the CBI? [AGENCY 5]

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MIKE HEAVICAN: The probation officer that you know as a probation officer probably maybe did some CBI things in the past. But the probation officer that we're kind of talking about here today on this chart, that's the entry level probation officer in the first column. [AGENCY 5]

SENATOR NELSON: Okay. All right, I see. Back to the interpreter that you were talking about a little earlier. You talked about interpreter supervisors but we have language here about two interpreter coordinator positions. Now so you're ending a contract for a couple and then doing coordinators if I understand it. [AGENCY 5]

MIKE HEAVICAN: Yes. Right. [AGENCY 5]

SENATOR NELSON: And what do the coordinators do? You were talking about these programs like for outstate counties. They facilitate finding the correct interpreter, is that it? [AGENCY 5]

MIKE HEAVICAN: Yes. [AGENCY 5]

SENATOR NELSON: Okay. [AGENCY 5]

MIKE HEAVICAN: A very busy job. [AGENCY 5]

SENATOR NELSON: Yeah, yeah. And then so that's a cheaper way of going than trying to have 31 different interpreters on hand, here close by. [AGENCY 5]

MIKE HEAVICAN: Oh, absolutely yes. Right. [AGENCY 5]

SENATOR NELSON: Okay. Thank you. [AGENCY 5]

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MIKE HEAVICAN: Yes. [AGENCY 5]

SENATOR MELLO: Senator Wightman. [AGENCY 5]

SENATOR WIGHTMAN: Thank you, Senator Mello. And thank you for being here. With regard to interpreters, do you see these changing from time to time? I suppose as the nation gets the ability to be here for other smaller nations that we do have continuing growth that way in a number of languages that you're...? [AGENCY 5]

MIKE HEAVICAN: Absolutely. And one of the things that, as Senator Harms made reference to, we now are having placement or are getting in place a structure administratively for us so that we can adapt to if we see a new wave of different new languages coming in. And I know you see this in your hometown in Lexington. When I gave my State of the Judiciary speech earlier this year, I listed some of the languages where we...that we've had requests for over the last year, many of them in rural areas. One of the languages was K'iche which I had never heard of in my life which is a rare Central American Indian dialect; and we need those translators in places like Lexington and Schuyler and South Sioux City. So I don't know what the next wave of languages will be but I'm sure there will be one, and we need to be able to adapt to that. [AGENCY 5]

SENATOR WIGHTMAN: I know in our county we had a tremendous growth of Somalians. [AGENCY 5]

MIKE HEAVICAN: Right. [AGENCY 5]

SENATOR WIGHTMAN: And we've had several African countries that have needed interpreters. And now I don't know whether they have several languages within the nation or not, but... [AGENCY 5]

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MIKE HEAVICAN: I think they do. [AGENCY 5]

SENATOR WIGHTMAN: No doubt. [AGENCY 5]

MIKE HEAVICAN: Yes. [AGENCY 5]

SENATOR WIGHTMAN: Do you see this just continuing to grow across the nation? I know sometimes one nation maybe will kind of we won't see very many of them out here and then another language will take its place, and I suppose we have that in all the counties, don't we? [AGENCY 5]

MIKE HEAVICAN: We have that certainly in many of our counties in Nebraska and you made reference this is happening across the nation undoubtedly. Right. It is I believe a function...one of the reasons why some packing plants now use workers from Africa is because most of those folks are coming here with some kind of political exemption to the--I'll call it an exemption--to the immigration laws. The packing plant owners do not want to be caught up in the whole business with illegal immigrants. Many of the folks from Mexico and Central America were illegal, so they turned to political refugees. [AGENCY 5]

SENATOR WIGHTMAN: Thank you. [AGENCY 5]

MIKE HEAVICAN: Yes. [AGENCY 5]

SENATOR MELLO: Are there any further questions from the committee? Seeing none, thank you, Mr. Chief Justice. [AGENCY 5]

MIKE HEAVICAN: Thank you very much. [AGENCY 5]

SENATOR MELLO: Are there any further testifiers on behalf of Agency 5, the Nebraska

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Supreme Court. [AGENCY 5]

WARREN WHITTED: Senator Mello and members of the committee, my name is Warren Whitted; that's W-a-r-r-e-n W-h-i-t-t-e-d. I'm the immediate past-president of the Nebraska State Bar Association and I'm here in place of Marsha Fangmeyer, the current president, who I understand is still trying a case in Denver or else she would be here with you today. Before I start, as a member of the bar, as a proud member of the bar, I feel compelled to...we've already reminded the committee that the judiciary is a separate branch, but we seem to kind of minimize that. And key to our form of government is the existence of the executive, the legislative, and the judicial branches of government. And while we look to the Legislature to fund the judiciary, it cannot be forgotten that the administration of justice in the state of Nebraska rests in the hands of the judiciary, and the rest of my testimony will go to that fact. The preservation of a strong judiciary is essential to our judicial system and our system of laws. It's of critical importance that the people who sit in those chairs, the people who wear the black robes, are adequately compensated for the work that they do. I have a great deal of respect for the high quality of the bench in the state of Nebraska. But by the same token, if we intend to encourage good replacement members of the court, it is essential that we adequately compensate them. And so I am here today to testify in support of the budget that's been recommended by the court. I'm also here to express my appreciation to the court for the responsible way in which they were able to manage the budgetary issues that faced them during the last biennium. At that time we were faced with a closing of 30 county courthouses and the significant reduction of services that would have resulted. The manner in which the court managed the budget albeit with some stress in the delay of a appointment of replacement judges and so forth, allows us to be in a position today where the Chief can come before you and ask for an increase in salaries for the judges without having a significant impact on this next biennium budget, and I think the court is to be commended for that. There are any number of things that the court has done which served to increase the efficiency of the administration of justice, and one of those is technology. But I implore the committee to recognize that

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while we can get more computers and we can reduce staff to some point as a result of technology, the rubber meets the road when the defendant appears before the court, and it's got to be person-to-person. And we need to do what we can to preserve an adequate representation for the people that are in Scotts Bluff County as well as Douglas County. So again I think the court's recommendation with regard to increases of judicial salaries in order to encourage qualified people to seek these offices is extremely important. One other issue is that all of you are aware, as I am as I get closer and closer to Medicare, that our bench, there's significant turnover in our bench because of the age of our judges. So this becomes an increasingly important problem as we face it today. I want to also address one other issue which seems to be important to the committee and it's definitely important to the bar, and that's this whole issue of interpreters. We can talk about dollars and we can talk about a whole lot of things, but this is predicated on the preservation of the constitutional right of these people to be represented. We've had situations anecdotally in Nebraska where the interpreter in a case, it might be a domestic relations case, would be the one spouse interpreting for the other; or an abuse case, the abuser interpreting for the abused. So these situations have to be addressed and we certainly support the court's interest in expanding this program. And the only place I see a problem that can't be solved by dollars is finding the people to act as the interpreters. But the additional coordinator and this whole process is a systematic way that the court has adopted to move forward on this. So with that said, I would urge the committee to support the budget request made by the court and the recommendation to the Judiciary Committee, and I'll be happy to answer any questions. [AGENCY 5]

SENATOR MELLO: Thank you for your testimony, Warren. Are there any questions from the committee? [AGENCY 5]

WARREN WHITTED: I wish Senator Larson was here. I'd love to answer his questions. [AGENCY 5]

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SENATOR CONRAD: Second. [AGENCY 5]

SENATOR MELLO: Seeing none, thank you for your testimony. [AGENCY 5]

WARREN WHITTED: Thank you very much. [AGENCY 5]

SENATOR MELLO: Are there any further testifiers on behalf of Agency 5, the Nebraska Supreme Court? Seeing none, that will close today's hearing on Agency 5 and move us to our last agency hearing of the day, Agency 94, the Nebraska Commission on Public Advocacy. [AGENCY 5]