

NEBRASKA REENGINEERING COMMITTEE

Concepts for Discussion

The Nebraska Reengineering Committee was convened by Chief Justice Michael Heavican to examine the Nebraska Judicial Branch and to study how a Judiciary designed for the needs of Nebraska's citizens of the 19th and 20th Century can be redesigned to meet the needs of the 21st Century. The Committee comprises District, County and Juvenile Judges, representatives of the Nebraska Bar, members of the public and the leadership of the State Court Administrator's Office. The Committee explored how best to achieve the values of accessibility, accountability, efficiency, fairness, and independence necessary to insure the liberty of the citizens of the State of Nebraska, and to do so with the greatest efficiency and least cost consistent with the liberty of the citizens. The Committee worked to identify ways that the Judicial Branch could best utilize judicial and administrative resources across the state.

The following Concepts for Discussion are presented for exactly that purpose: to present concepts for discussion and consideration by and among Nebraska's Supreme Court, its judges, court employees, attorneys, citizens and policy makers. Each concept not only includes potential benefits but also carries potential problems and challenges, some of which are identified in this paper. The concepts should not be considered as proposals or recommendations from this Committee. The Committee hopes that the ensuing discussion will lead to a reinvented Judicial Branch that provides access to quality and timely justice at a cost that the citizens of Nebraska can afford.

Nebraska Reengineering Committee

Concepts for Discussion

Nebraska Reengineering Committee Principles

- The Supreme Court needs the management flexibility to efficiently and effectively coordinate the courts as a system.
- Court services should be delivered to the public in a coordinated manner.
- Access to justice and court services should be maintained and enhanced throughout the state.
- Courts must collaborate with partners to maintain and enhance current efforts to create a more effective justice system.
- As an equal branch of government, the judicial branch is of equal value to all citizens and should be adequately funded by general appropriation to perform its constitutional duties and to resolve disputes throughout the state.
- The courts should continually assess their ability to operate effectively.

The Concepts

1. Centralize and Consolidate the Management of the Judicial Branch
2. Enhance the Supreme Court's Authority to Manage Nebraska's Judicial Resources
3. Consolidate Judicial Districts
4. Establish Concurrent Jurisdiction of Judges and Expand Assignments among the Courts
5. Centralize or Regionalize Court Operational Functions
6. Identify New Business Processes and Ways of Keeping Courts Open through Technology
7. Identify Judicial Functions That Can Be Delegated and/or Automated
8. Use Quasi-Judicial Officers to Resolve Administrative Judicial Matters
9. Explore Alternatives to Make the Record of Court Proceedings
10. File Serious Felonies Directly in the District Court
11. Reduce the Cost of Travel and the Amount of Time Spent Traveling
12. Reduce the Cost of Appellate Court Operations
13. Increase Court Collections

1. Centralize and Consolidate the Management of the Administrative Resources of the Judicial Branch

A. *Description of the concept*

The fundamental question addressed in this concept is: who should be responsible for the operation and management of the court system. The Constitution vests the power in the Supreme Court, but in practice, only the employees of the limited jurisdiction county courts are employees of the Supreme Court. In the general jurisdiction district courts, elected clerks of district court with county employees are responsible for the records and financial management of the court.

The goal of this concept is to improve the operation of the Nebraska judicial branch by sharing and consolidating resources between district and county court offices.

At the present time, there are two separate clerks' offices for the county and district courts and those offices operate independent of each other even though they use the same statewide automation system, JUSTICE. This concept would have the two offices work cooperatively through interlocal agreement to provide coverage for each other during court hearings and when staff is absent for vacation, sick leave or training. This would have little impact on the larger, urban courts but would increase flexibility in rural courts where each office has fewer than three employees and in some cases less than one full time employee.

The specific duties and assignments of the district court and county court employees would be coordinated by the presiding judges of each district with assistance from an employee designated by the judges.

In the smallest district courts where there is no elected clerk and where the duties are performed by a county employee acting as "ex officio clerk" the district court duties could be performed by a county court employee.

In the smallest counties, the volume of work for both courts would determine the hours of operation and would be less than 40 hours per week in many cases. Electronic filing and electronic access to court records would make the court available for most purposes 24 hours per day, seven days per week.

Examining the administrative function of the court staff provides an opportunity for an investigation of the judicial functions of clerk magistrates. Technology makes it possible for a county judge with statewide jurisdiction to be available at any time and, in many ways, eliminates the need to have non-law trained magistrates to handle bond settings, search warrants and the like. In addition, eliminating judicial duties would free clerk

magistrates from the requirements of the code of judicial conduct. If it is determined that some judicial functions should be retained, there should be continuing education requirements for these employees.

B. *Principles and issues addressed*

- This concept would enhance the management flexibility of the Supreme Court to efficiently and effectively coordinate the courts as a system.
- The concept would enhance the ability of the court to deliver services to the public in a coordinated manner.
- Resources and responsibilities are divided in the Nebraska judicial system. The court does not have management control of some business operations; they are vested in the Clerk of the District Court.
- The size of the caseload in many counties does not justify the cost of keeping the court offices open during all business hours.
- In smaller counties, the caseloads are so small that ex-officio clerks and their staff never have the opportunity to develop and maintain the expertise needed to do the work and to operate the case management system. In most of these small counties, business analysts in the AOC must help staff with every JUSTICE transaction.
- County court employees are already familiar with the JUSTICE application and could much more efficiently support District Court work, in most cases without any increase in staffing.
- Electronic filing and electronic access to court information will allow most citizens to interact with the court without traveling to the courthouse.
- Pro se litigants still would require personal assistance, but technology could be used to provide these services from another location in rural areas at times when the clerk's office is not open.
- Court administration should be performed consistently throughout the state, under the direction of presiding judges and the Supreme Court, through the AOC.

C. *Costs of the concept*

- Sharing court resources between District Court and County Court will not save money directly, but it will reduce travel time when staff must travel from another county to perform work that could be done by someone working in the other court in the same county.
- Moving District Court support from ex officio county staff to the County Court clerk will save money for the counties, but not for the state.
- Closing County Court Clerks' offices in smaller counties for part of the week would save money for the state and for the county. The amount of savings will vary, depending on the number of positions eliminated and the quantity of working hours reduced.

D. *Timeframe and timeline for implementation*

Some elements of this concept could be implemented in the next budget cycle.

E. *Immediate budget impacts*

Coordination of coverage across court boundaries will reduce a small amount of travel where clerks travel from one county to cover hearings or other work for staff in another county.

F. *Long-term system improvements*

Better cooperation among the courts will improve the productivity of court staff and the efficiency of operations. A stronger administrative structure will strengthen the management of the courts while relieving judges of much of the burden of administration.

G. *Challenges or problems introduced by the concept*

The Chief Justice does not have the authority to direct the locally elected executive branch officials, i.e., the District Court Clerk.

The cost of absorbing the office of the Clerk of the District Court in all counties would be substantial and likely not affordable in the present budget climate.

As operational hours of the courts are decreased in rural counties, any reduction in access to justice would be minimized and offset by electronic access to court information and by the ability to conduct many transactions with the court over the Internet.

Internet capacity in some rural areas of the State may present a challenge.

There will be resistance from court staff, lawyers, and legislators to concepts to consolidate clerical operations and to reduce clerks' office hours because it diminishes the perception of local resources and control.

Pro se litigants who are not willing or able to use the Internet will not have as easy access to assistance from the court in rural areas. Broadband Internet access is not available to many citizens in the western part of the state.

Public trust and confidence in the judicial branch will be reduced as access to the court system is reduced by office closings.

In some counties, District Court staff and County Court staff work together and share resources very well, but in others, this does not occur.

2. Enhance the Supreme Court’s Authority to Manage Nebraska’s Judicial Resources

A. *Description of the concept*

The Supreme Court should have the flexibility to determine where the judgeships should be located in the State.

B. *Principles and issues addressed*

The Supreme Court needs the management flexibility to efficiently and effectively coordinate the courts as a system.

The Constitution states that the Supreme Court manages the Judiciary. It cannot manage judicial resources without the authority to determine where judges should be assigned.

The Legislature should be able to determine the number of Judgeships; the Supreme Court should be able to determine where the Judgeship should be located in order to best meet the needs of litigants throughout the state.

C. *Costs of the concept*

There would be no cost to making this change.

D. *Timeframe and timeline for implementation*

This concept would require a statutory change.

E. *Immediate budget impacts*

Cost savings could be immediate if the Supreme Court does not replace judges in certain areas where they have retired or soon will retire.

F. *Long-term system improvements*

Judicial resource needs and appropriate use throughout the state would be managed by the Supreme Court, as per the Constitution.

G. *Challenges or problems introduced by the concept*

- Members of the bar and local citizens may resist changes to the current operation of the Judicial Resources Commission and the statutory obligation for the Commission to make recommendations directly to the legislature.
- The legislature may resist losing their authority to determine placement of judges.
- This change could be seen as limiting access of local communities and members of the bar to the entity responsible for the location of trial judges. Citizens may feel the Supreme Court would not be as responsive as their local elected legislator.

3. Consolidate Judicial Districts

A. *Description of the concept*

Change the County Court and District Court judicial districts to conform to the six Supreme Court Districts.

B. *Principles and issues addressed*

- The concept would provide more flexibility to better use judicial resources throughout Nebraska.
- The concept would tie judge needs to more current population numbers, as well as to an already implemented judicial districting model.

C. *Costs of the concept*

There are no direct costs to the concept.

D. *Timeframe and timeline for implementation*

The concept would require a statutory change.

E. *Immediate budget impacts*

There are no immediate savings or costs.

F. *Long-term system improvements*

- The concept might lead to reducing the number of judges and could result in long term savings if current judgeships are kept vacant and/or if future judgeships are not created.
- The concept would increase the ability of the judiciary to have judges located more consistently with population as well as current Supreme Court districting.

G. *Challenges or problems introduced by the concept*

- The public voting in retention elections might not be familiar with all of the judges in a larger district.
- Rural areas may fear a lack of input into the makeup of judicial nominating commissions.

4. Establish Concurrent Jurisdiction of Judges and Expand Assignments among the Courts

A. *Description of the concept*

Within judicial districts other than the Third and Fourth Districts and Sarpy County in the Second District, a judge from one level of court could handle work for one from another level when necessary and agreed to by the judges involved. This would allow a judge in a particular courthouse to resolve some matters in the courtroom or in chambers for a judge who is physically located elsewhere or who is on vacation or out sick. This increases the flexibility of judge resources, and also could improve timeliness and access to judges.

Effective implementation of the concept may require the creation of one or more administrative judges who serve at the pleasure of the Supreme Court to direct the assignments among the courts.

B. *Principles and issues addressed*

- The concept would create more efficiency by using judicial resources as needed.
- The concept would reduce mileage costs; judges would not have to travel long distances for events that require the presence of a judge, but that might not take much time at the courthouse.
- The concept would be particularly helpful when there is a need to fill in for a retired or ill judge.
- There would be time savings for judges. A judge could ask a judge in another location to sit for a motion that would take 15 minutes, saving the judge from travelling an hour or more to the other courthouse for that hearing.
- Cases could move forward more quickly while maintaining the availability of a judge to conduct and manage particular events. Attorneys and litigants would not have to wait for the next time the judge could be at a location or return from vacation.
- Access to audio-visual technology would be particularly helpful to implement this concept.

C. *Costs of the concept*

Cost savings will be realized if these assignments enhance the productivity of the bench and if the court has the ability to keep future judgeships vacant or to ensure that additional judgeships are not created over time.

D. *Timeframe and timeline for implementation*

The concept would require a statutory change that gives statewide jurisdiction to the separate juvenile judges. Legislation providing for flexible appointment of judges should include separate juvenile judges.

E. *Immediate budget impacts*

There are no immediate savings or costs.

F. *Long-term system improvements*

The primary benefit on the court side is that the judiciary and individual judges could better utilize judicial resources and the time judges have available. This would result from decreasing travel time and expenses for the judges. There may also be some

savings for the travel time and expense of a court reporter, who would otherwise also need to travel for that event. There is a benefit to the public of increased timeliness and access to justice. Judges would be more available to attorneys and litigants. The long term cost savings comes from reducing the number of judges needed while maintaining or improving the judicial system.

G. *Challenges or problems introduced by the concept*

- The ability to make assignments to other jurisdictions exists now. Implementing the concept will require the creation of local, regional, or statewide administrative judge positions to assign judicial officers, or that the supreme court judge of each supreme court district would exercise administrative control over the judges of the counties within his or her district.
- Some parties may object to having any part of a district court case heard by a county judge.
- Judges might feel threatened by sharing their workload with other judges.
- Judges could feel that other judges could not do particular things as well as they do. In addition, “cultural issues” would keep some attorneys from wanting judges before whom they do not regularly appear to hear parts of their cases.
- The benefits will only be realized as judges utilize this opportunity and recognize the potential for improving their own caseload management and increasing access for the public.
- Parties and attorneys will not want to give up the ability to veto a judge assignment.
- Implementation would require a discussion and decisions as to what matters could be heard only with the consent of the parties and the judges and what matters could be heard under what circumstances without such consent.

5. Centralize or Regionalize Court Operational Functions

A. *Description of the concept*

Move work from counties that are understaffed to counties that are overstaffed, including traffic citation processing, annual reports, garnishments, and other back-office clerical functions. This will allow greater staff specialization and improved productivity.

B. *Principles and issues addressed*

Court clerks must possess a vast amount of knowledge to function effectively. Given the level of compensation that is provided for these positions, it is extraordinary to have clerks who grasp every aspect of their jobs and who can function effectively and efficiently with complex technology tools. In counties with very low caseloads, it is nearly impossible for clerks to possess these skills because of their infrequent exposure to many types of cases, documents, and events. By centralizing the management of operational processes (to a limited degree) and by supplying automation support, the AOC has provided tools to support clerks in processing the work that comes to them, no matter how unique it might appear.

In larger courts, staff specialization allows clerks to work much more efficiently in a much narrower area. Clerks can become productive much more quickly because the amount of required knowledge is lower if they are only handling civil, criminal, child support, juvenile, or domestic relations work. The high volume of similar transactions allows them to develop and maintain skills through repetition. Over time, as they rotate through different assignments in the office, clerks develop the general knowledge that allows them to understand, manage, and lead their organizations. This development requires many years of effort.

Proximity to a paper case file has, historically and traditionally, been a requirement for doing work in a court. As court records and court information become electronic, this requirement of proximity is being removed. It is now possible to create the same kind of staff specialization in rural courts that currently exists in urban courts, by moving work across county boundaries. One county, for example, might handle all of the criminal back-office work for all counties in a judicial district, while another would do civil, another domestic relations, etc. Some back-office work from overloaded urban courts might also be handed off to less busy operations.

Other examples include:

- Creating a centralized judgment docket so that a judgment filed in any court in the state would be valid in all other counties (along with a centralized location for the filing of foreign judgments).
- Providing self-help services (including materials, forms, and personal assistance) to pro se litigants over the Internet from a central location.

Moving work in this way would require court records to be completely electronic. This is the case in many counties, but staff and judges continue to rely on paper files as the official record. In the long term, a transition must be made to full reliance on the electronic case file.

- C. *Costs of the concept***
There are no tangible monetary costs for this concept, only activity by staff and committees to work out policy and operational processes to allow the work to be done remotely.
- D. *Timeframe and timeline for implementation***
It seems logical to begin with a few limited pilot tests to determine the issues and to resolve problems. Pilot testing could begin as soon as policy and business issues are resolved, likely within a year. Expansion into new work areas could continue over several years, along with testing of the centralization of key functions.
- E. *Immediate budget impacts***
There would be no immediate budget impacts and no short term savings. Over the long term, reallocation of work and employees would reduce the staff needs of the judicial branch.
- F. *Long-term system improvements***
This concept would provide specialization of staff that would increase expertise and productivity. Work could be moved to outlying areas and help to justify retaining court staff in rural counties.
- G. *Challenges or problems introduced by the concept***
In the short term, there are likely to be business process disruptions. Significant changes in the JUSTICE case management system also would be required.

6. Identify New Business Processes and Ways of Keeping Courts Open

A. *Description of the concept*

The statutory definition of “open courts” should specifically include electronic methods and be defined in terms of accessibility to judicial services. The Constitution and statutes do not presently provide a specific definition of open courts, but simply require a court in each county. This concept is also discussed in Concept #1: Centralize and Consolidate the Administrative Resources of the Judicial Branch.

B. *Principles and issues addressed*

By changing the definition of “open court,” the Supreme Court and Administrative Office of the Courts and Probation can maximize available resources by using technology to centralize and regionalize services. This would encourage thinking about how to improve access for citizens and attorneys without necessarily keeping the doors of all courthouses in all counties open five days a week, 8:00 a.m.–5:00 p.m. One centralization and regionalization option is to enable courts that do not have a heavy caseload to stay open while doing work for courts that have a heavy load. Another option would be to enable the judges and staff at one court location to access at any time the litigants, attorneys and records of a court at other locations through technology. This would maintain or improve access and better use current resources.

C. *Costs of the concept*

There are no direct costs to the concept.

D. *Timeframe and timeline for implementation*

A statutory change would be needed in the next legislative session.

E. *Immediate budget impacts*

Cost savings could be immediate if the Supreme Court does not replace judges in certain areas where they have or will soon retire.

F. *Long-term system improvements*

The expanded definition of “open courts” would allow for maximizing resources that the state could afford, while maintaining or improving access to justice for the communities.

G. *Challenges or problems introduced by the concept*

Some might fear that the result of defining the term “open courts” to include access through technology will be that the local court in every county would not have a person available Monday through Friday, 8:00 a.m.–5:00 p.m. In fact, this probably would be the result. The concept raises the question: with current technology and communication alternatives creating a new concept of access to justice, can Nebraska afford to retain and does the public truly benefit from operating under the current concept of open court?

Internet capacity in rural areas of the State may present a challenge.

7. Identify Judicial Functions that Can Be Delegated and/or Automated

A. *Description of the concept*

This is a proposed long-term effort to analyze the work of judges: case type by case type, event by event, and document by document. As a part of this review, it will be determined which actions require a decision by a judge and which can be made by someone with lesser expertise and training. For those that can be delegated, checklists and procedures for needed judicial review can be created.

Once business processes are analyzed, opportunities for delegation are identified, and checklists are created, the automation process will begin. It is assumed that a future JUSTICE platform migration would incorporate this new workflow and provide all of the tools required for its implementation.

Concurrent with the development of the new JUSTICE system, roles and responsibilities for court and clerk staff must be redefined to support this new way of doing business.

Finally, as a part of this effort, the AOC will work with selected judges and staff to test equipment and approaches for operating the courts without paper files.

B. *Principles and issues addressed*

The time is ideal to explore future technology enhancements to court automation.

Traditional case management systems were designed to support record keeping clerical functions. Over time, they were extended to offer some support to judicial officers and courtroom staff, but they remained primarily clerical systems.

New approaches to developing a new case management system use a process that begins with the judge, rather than with the clerk's office. This approach, now being developed in a few states, analyzes the work of judges and prepares a system that fully supports and automates those procedures, working backwards toward the clerks.

Judges are the most highly trained and expensive resources in the judicial branch. Their expertise should be reserved for those matters that require it. Simpler tasks should be relegated to quasi-judicial officers, attorneys, paralegals, and case managers who can use checklists developed under judicial guidance to do their work. Automated workflow facilitates this reengineering and makes it possible to perform these functions with staff experts scattered throughout the state.

Nebraska, which already is a leader in court business process management, can combine best practices developed in other states to enhance the way its courts operate.

C. *Costs of the concept*

This is a long term project that will require the effort of personnel throughout the judicial branch, a major reengineering of work processes, and an upgrade of the case management system. The major tangible costs will be replacement of the JUSTICE case management system, which will occur at some point in the future. This initiative affects how that transition will be undertaken.

The number of quasi-judicial officers, attorneys, and paralegals will increase. The courts will be able to process more cases with fewer staff, and the cost effectiveness of court clerk operations in rural counties will be increased.

D. *Timeframe and timeline for implementation*

It will require from five to ten years to complete this reengineering, restructuring, and technology replacement initiative.

E. *Immediate budget impacts*

There are no immediate costs or savings.

F. *Long-term system improvements*

This concept will focus judicial branch resources more appropriately, reducing work done at inappropriate levels of the organization. It will create a more stable and efficient way of processing cases, particularly in rural areas where staff resources are underutilized.

G. *Challenges or problems introduced by the concept*

This concept constitutes a radical restructuring of the judicial branch. It is certain that there will be opposition from many directions. Because it will be implemented slowly, incrementally, and carefully, it is hoped that resistance will be overcome as positive changes are observed.

8. Use Quasi-Judicial Officers to Resolve Some Judicial Matters

A. *Description of the concept*

Review and increase other means of hearing and deciding matters that judges in Nebraska currently handle. This could include the use of quasi-judicial officers to hear traffic, small claims and child-support enforcement matters. The concept would result in flexibility and the maximizing of resources, if implemented on a regional basis.

B. *Principles and issues addressed*

One of the benefits is that it could decrease travel time and costs, maximizing available judicial resources. It could also increase timeliness and access to justice for the public, since matters could be handled expeditiously – without waiting for a judge to be available or on-site.

C. *Costs of the concept*

Although making this change would decrease time needed by judges, it would increase the time and expense of the quasi-judicial officers. The savings would be in the difference between the cost of judge time and the cost of the other resource.

D. *Timeframe and timeline for implementation*

Some changes would require a change to statute or court rule. This process of review, change, and implementation could take place in six-12 months. The timeline would be:

- Review potential changes.
- Determine if statute or court rule change is needed.
- Adjust resources (add or reassign administrative law judges or other resources).

E. *Immediate budget impacts*

It is uncertain whether immediate cost savings could be obtained. Cost savings are likely to be in long term system improvements. These savings would likely come from the number of judges needed or time judges need to accomplish their work.

F. *Long-term system improvements*

There should be a financial savings to the system. It would also increase timeliness and access to justice for the public, since many simpler matters would not have to wait for a judge. The number of judges needed would be reduced in the future.

G. *Challenges or problems introduced by the concept*

- Judges might feel that they could handle these matters best.
- Some judges, with more time, would not want to give up handling particular administrative matters.
- There might be the expectation of the public to have a case heard by a sworn judge, but giving access to a judge in a contested case may resolve this issue.
- The number of judges needed may be reduced in the future.

9. Explore Alternatives to Make the Record of Court Proceedings

A. *Description of the concept*

The concept is to explore alternative means of making the record, including use of digital audio recording, possible pooling of court reporters, exploring the employer/employee relationship of court reporters and combinations of a variety of means. Nebraska currently has 65 court reporters to make a verbatim record of court proceedings. Nine are “real time” stenographic reporters; 56 are non-real time stenographic reporters or electronic reporters.

The goal is to create a high quality verbatim record at the least cost to the taxpayers and litigants:

- Produce an accurate record of what is said in the courtroom.
- Provide, on request, an accurate and timely transcript to the public, litigants, attorneys, trial judges, and appellate judges.
- Enable trial and appellate judges to have access to the record in order to make timely decisions.

If resources permit, transition from stenographic court reporter to digital recording or a combination of these means of making the record should be made through attrition.

Most judges and attorneys are satisfied with the current method of making the record.

- Most District Judges who use a stenographic reporter would like to retain that method.
- County Judges who use digital audio recording report that the equipment works well and that it is easy to identify whether all microphones are working. They also report that it is helpful to be able to listen to the recording when preparing findings.

A few problems with stenographic reporters have been identified:

- At times, judges have had to cancel hearings because the court reporter has been sick or otherwise unavailable;
- In that court reporters each work for a single judge, pooling of court reporter resources and management of this resource can be challenging.
- Court reporters at times do not report their “on-call” status making it more difficult to use this resource efficiently.

Reviews of the use of digital recording in other states have been mixed.

B. *Principles and issues addressed*

The importance of discussing this concept further is that with budgetary issues and changes in technology, the most accurate, timely and cost effective solution should be determined. It is possible that the solution will be a hybrid or blended solution that includes a variety of means. The solution should enhance the courts’ management

flexibility to efficiently and effectively coordinate the courts as a system and also would enable the courts to continually assess their ability to operate effectively.

9. ***Costs of the concept***

Since the concept is to explore alternatives, it is impossible to determine any cost or cost savings until the solution is determined. Initial review of this concept provided the following cost information:

- Equipment costs for digital recording: the one-time cost of installing the necessary software, mixer, and microphones in a courtroom is \$3,895. The annual on-going costs are \$1,105.
- Personnel costs based on the maximum potential hiring rates and the highest rates for insurance:
 - Annual salary and benefits for a courtroom clerk/monitor are \$53,398.70.
 - Annual salary and benefits of a real time reporter are \$81,785.38;

D. Timeframe and timeline for implementation

Alternatives to the current arrangement for making the record in District Court should be explored carefully. There is much conflicting information. Cost savings and expenditures vary tremendously based on the decisions and method of implementation. Transitioning through attrition is recommended if possible. Various alternatives should be explored over time, using pilot courts and judges when possible.

E. Immediate budget impacts

Depending on the solution selected and the combination of court reporters, courtroom clerks, technology selected, pooled resources, employee relationships, and the time for implementation, budget impacts could be determined.

F. Long-term system improvements

The concept is to explore alternatives to the current method of making the record to ensure that the courts to create a high quality verbatim record, in a timely the least cost to the taxpayer.

G. Challenges or problems introduced by the concept

- Having the right qualifications of both the person making the record and the person producing the transcript.
- Timeliness: is there delay in obtaining a transcript?
- Cost/Benefit Analysis; what is the real cost of the various methods?
- Selection/Retention of the person making the record.
- Management Issues: How to make the most efficient use of the available resources?
- The court reporter is now appointed by, supervised by and serves at the pleasure of the judge and the Nebraska Supreme Court. Although not the paramount issue, most judges would not like to lose their relationship and their ability to appoint their court reporter.

- Judges may need to take on an added responsibility of managing the courtroom to ensure that all is picked up during all hearings, trials, conferences and closing arguments.
- Unless done by attrition, a change in the method of making the record will have an impact on the continued employment of the current court reporters.
- There is a question as to whether the cost savings identified by the Administrative Office are accurate.
- There are concerns about whether digital audio equipment is reliable.

Because there are questions as to whether

- stenographic court reporters or
- persons monitoring digital recording equipment or
- contractual stenographic court reporters or
- some other method

would best produce an accurate transcript at the lowest cost and would best produce a timely transcript, an assessment and evaluation of the different methods should be conducted. The assessment could be based on a pilot project of digital recording in District or Juvenile Court and based on a literature review.

A blended system of methods should be considered, with the method that best makes the record used for jury trials and complex matters and other reliable methods used for other types of hearings.

Any change to the current method would require training on change management.

Consideration should be given as to when a digital recording itself can be used as the official record

10. File Felonies Directly in the District Court

A. Description of the concept

File serious cases directly with the District Court, rather than with the County Court.

B. Principles and issues addressed

Direct filing of these cases may eliminate steps in the process and save time of the court and attorneys.

C. Costs of the concept

There are no direct costs to the concept.

D. Timeframe and timeline for implementation

Adequate time for statutory changes, rule changes, and business practice review would be required.

E. Immediate budget impacts

There are no immediate savings or costs.

F. Long-term system improvements

The criminal process will be streamlined for these cases, which are likely to go to trial.

G. Challenges or problems introduced by the concept

- Some defendants may still want a preliminary hearing. A case can be sent to the County Court if a preliminary hearing is desired.
- This concept would eliminate some filing fees that are currently paid by the county to both courts.

11. Implement Videoconferencing and Other Practices to Reduce the Amount of Time Spent Traveling and the Cost of Travel

A. *Description of the concept*

Expand the use of videoconferencing or other interactive technology to conduct hearings in outlying counties, in lieu of travel by a judge. This may require statutory changes to eliminate the requirement for consent of the parties to use videoconferencing in certain instances, and to allow video trials in minor cases. It will also allow virtual arguments in appellate court cases.

Define statewide rules for when a judge should and should not travel to another county, including emergency rules (that are even more restrictive) to be used during times when budget resources are severely restricted. Define rules to govern when the parties in a case must travel to a neighboring county for trial or other proceedings, instead of requiring travel by the judge, court staff, and attorneys.

Pooling certain judicial functions including many that could be provided through videoconferencing (and even after regular court business hours by a duty judge), such as protection orders, arrest and search warrants, bonds, temporary restraining orders, traffic trials, guardianship and conservatorship annual reports, emergency removal hearings, and similar functions.

B. *Principles and issues addressed*

- Statutes allow the use of videoconferencing technology in every court event type except jury trials, though consent of the parties generally is required.
- Travel to the state capitol or to another location for oral argument takes a great deal of time for attorneys, which in turn costs their clients a significant amount of money. Virtual oral arguments are an inexpensive, innovative way to reduce the cost of litigation.
- It would be difficult for a judge to tell parties that he or she would not be traveling to their county for a hearing, absent policy direction from the Supreme Court that helped parties and attorneys understand that these cost saving measures are being implemented statewide by all judges.
- Requirements to hold proceedings in each county were developed when it took a great deal more time to travel to the local courthouse than it does today. Today, it is possible to travel to county seats in adjacent counties much more quickly than could be done a century ago.
- Some proceedings, particularly those that are relatively simple and that occur without too much advance notice, could be conducted over a videoconferencing link from a central location by a duty judge.

C. *Costs of the concept*

- Videoconferencing is a relatively inexpensive technology that can be implemented quickly and requires minimal maintenance. A top of the line videoconferencing system can be procured for \$15,000; lower cost systems may be adequate. A leased line system would cost \$425 per month, but would have no additional cost if run over the court's IP network. Savings in travel time and cost would quickly pay for the equipment.

- In past years, court employees traveled about 1.6 million miles per year, at a cost of \$.48 per mile. Lost time for the judge and staff also is a factor. Travel has been reduced over the past few years, but travel expenditures are nearly a half million dollars per year. Savings could be in the hundreds of thousands of dollars, and the reduction of travel time and centralization of processing emergency matters might even save a judicial position or two.
- Virtual oral arguments would not result in savings to the state budget, but would reduce litigation costs for parties.

D. *Timeframe and timeline for implementation*

Proceedings allowed by current statutes could begin almost immediately, as soon as equipment could be procured and installed, and necessary policy issues (e.g., rules defining when judges should and should not travel for hearings) could be worked out. Expansion of videoconferencing into new areas would require statutory changes that would entail more time.

Virtual oral arguments could be implemented once necessary rules changes were implemented and equipment procured for the court. Videoconferencing locations also must be identified for attorneys throughout the state. This might include using equipment in courthouses in individual counties, videoconferencing through computer networks in law offices, and the use of video studios at commercial locations.

Rules for travel by judges and court staff should be developed by a committee appointed by the Supreme Court, and reviewed through normal processes. This likely would take at least a year.

Centralization or regionalization of judicial functions would be a more long-term effort. Committee work could begin immediately for those functions that offer the greatest benefit at the lowest cost (e.g., arrest warrants and search warrants), and could expand to other areas over several years.

E. *Immediate budget impacts*

Significant savings in the travel budget could be realized almost immediately: these savings would be partially offset in the first year by the cost of new equipment and support staff.

F. *Long-term system improvements*

More productive judges and staff will benefit the judicial branch. Allowing judges in areas that are not as busy as others to take care of emergency matters filed in other counties could relieve some of the strain on urban courts. Specialization by some judges in these centralized functions will increase the quality of decisions.

G. *Challenges or problems introduced by the concept*

Participating in hearings by videoconference is not as good as appearing in person. Legal issues concerning the right to confront witnesses have been raised in other states that use videoconferencing technology. There are situations where it is desirable for a party to appear at the court, such as a juvenile meeting his or her guardian ad litem.

12. Reduce the Cost of Appellate Court Operations

A. *Description of the concept*

Eliminate hard copy publication of statutes, court rules, and court opinions.

Pool support staff and law clerks in the appellate courts in order to reduce operating costs.

B. *Principles and issues addressed*

- As the number of copies of books that are published decreases, the cost per book increases dramatically. Because there is so much reliance on electronic information, published books soon will be too expensive for many to afford.
- The first step in this process is to make the electronic version the official opinion.
- The court currently sells subscriptions to paper publications. While it may be possible to retain the subscription system with electronic materials, it is unlikely that people will continue to pay for information that they can receive for free from other sources.
- As budget resources become more limited, courts must learn to do more with less.

C. *Costs of the concept*

Costs for this concept are minimal.

D. *Timeframe and timeline for implementation*

This concept could begin to be implemented in the next budget cycle.

E. *Immediate budget impacts*

The concept would reduce the courts' operating expenses immediately.

F. *Long-term system improvements*

As the legal community makes the transition from paper publications to electronic, they will be in a better position to deal with electronic case files, electronic filing, etc.

Pooling of appellate court staff resources would allow more specialization and higher productivity.

G. *Challenges or problems introduced by the concept*

Change will be very difficult for some lawyers and organizations, so there will likely be some resistance to the discontinuance of publication of paper resources.

Appellate court staffing is already thin and reductions will delay the preparation of orders and opinions.

13. Increase Court Collections

A. *Description of the concept*

Analyze current practices for imposing fines, fees, and costs, and current methods of waiving or writing off financial obligations. Implement a centralized collections function to increase the recovery of fines, fees, and costs. Study the use of tax intercepts, withholding of professional licenses, and other approaches to increasing collections.

B. *Principles and issues addressed*

- An alternative for responding to the current budget crisis is to increase court revenues in addition to cutting operating expenses.
- Fines are typically not imposed on criminal defendants to the extent that they could be. These individuals often do not have the resources to pay and are unable to pay if incarcerated.
- Very often individuals are released from probation without completing payment of fines, fees, costs, and restitution.
- The court does not have a viable collections program to ensure that financial obligations are met.
- Tax refund intercept, withholding of professional licenses, and refusal to renew driver's license and car registrations are methods that have been implemented successfully in other states.

C. *Costs of the concept*

Funding would be required to establish a centralized court collections office that would collect financial obligations throughout the state. While there would be some expense to creating these positions, the experience of other states shows that the costs are more than covered by the amount of money that is received. Some of this work could be performed by underutilized clerks in rural counties.

D. *Timeframe and timeline for implementation*

The concept could be implemented as soon as resources are provided.

E. *Immediate budget impacts*

Increased revenues would be realized as soon as the collections unit begins operation.

F. *Long-term system improvements*

The primary benefit of a sound court collections program is that there is more respect for court orders and more people voluntarily comply, once they know that they are being tracked.

G. *Challenges or problems introduced by the concept*

It will be difficult to make a case for staffing increases in the current economic environment.