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# EFFECTIVE STRATEGIES FOR MAKING THE COURT RECORD

## Final Recommendations

Justice Jeffrey J. Funke  
Justice John R. Freudenberg



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## I. INTRODUCTION

The making of a quality official record of a court proceeding is a priority of the Nebraska Judicial Branch and is necessary to ensure the credible and efficient operation of the courts. In order to guarantee the fair administration of justice and accountability to the public, court records must provide a certified account of legal proceedings. The accountability for ensuring the integrity of the verbatim record falls upon the judges presiding over judicial proceedings.

Historically, the Nebraska Judicial Branch has employed official court reporters to make, preserve, transcribe and deliver a verbatim record for court proceedings with a majority of them being stenographic official court reporters. The Judicial Branch has relied on official court reporters because they are qualified and trained to perform these important duties. The Judicial Branch's official court reporters have and continue to serve the trial courts in a commendable manner as they ensure that the record is accurate and available for review. They are critical to maintaining the public trust and confidence in the judiciary. Unfortunately, the Judicial Branch is at a crossroads and must address head on the difficulty in recruiting and hiring official court reporters, specifically stenographic official court reporters. This report is meant to provide the Nebraska Supreme Court with recommendations to address the current challenges so that moving forward the Nebraska Judicial Branch is able to support and enhance the abilities of *all* court reporting personnel and ensure our trial judges have high quality employees to assist them in the delivery of justice.

While there are definite advantages to using official court reporters (stenographic and digital), there are also some challenges. One of the current challenges for the Administrative Office of the Courts and Probation (AOCP) is assisting the district court and separate juvenile court judges with hiring official court reporters, especially in the more rural judicial districts. However, this is not just a challenge for Nebraska. In the *2013-2014 Court Reporting Industry Outlook Report* sponsored by the National Court Reporters Association (NCRA), Ducker Worldwide projected a decrease in enrollment and graduation rates for stenographic court reporters, combined with significant retirement rates, will create a critical shortfall in stenographic court reporter positions within five years from the date the report was published, or beginning in 2019.<sup>1</sup> Additional factors impacting this decrease in stenographic court reporters include fewer schools are offering court-reporting programs, the high cost of attending these types of schools and fewer programs being accredited by the NCRA,<sup>2</sup> whose Registered Professional Reporter (RPR) designation is the entry-level standard recognized by 22 states that license court reporters.<sup>3</sup> Nebraska also does not have any court reporter schools or court reporter programs to recruit from to fill these positions nor does the Nebraska Judicial

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<sup>1</sup> *2013 – 2014 Court Reporting Industry Outlook Report, Executive Summary*, Ducker Worldwide, p. 5.

<sup>2</sup> Gravely, Alexis, "The Silent Problem Facing the Nation's Courtrooms: Fewer people want to be court reporters, adding to court delays," *The Wall Street Journal* (July 28, 2019).

<sup>3</sup> CourtReportersEDU.org (January 20, 2021).

Branch have an internal educational or training program to facilitate the professional development of court reporting personnel.

Other challenges experienced by the Supreme Court, Court of Appeals and the AOCB are:

- Difficulty in finding substitute official court reporters especially for judges who are without a court reporter for an extended period of time.
- Issues concerning delays in the preparation of bills of exceptions.
- Issues concerning the cost to prepare bills of exceptions or transcripts.
- Issues concerning bills of exceptions submitted to the appellate court that are not in compliance with Supreme Court rules.
- Inability for a substitute court reporter to prepare another court reporter's bill of exception/transcript because of incompatible software, unfamiliarity with the methodology used by the court reporter, or not having access to the court reporter's dictionary.
- Inability to identify whether official court reporters are regularly updating their equipment and software to ensure there is confidence in their ability to make and preserve the verbatim record of a court proceeding.
- Inability to access the verbatim record and exhibits because either the custody of the record has not been transferred to the district court clerk, or if transferred, the record is in an inaccessible format.
- Inaudible recordings made by county court reporting personnel making it difficult or impossible to prepare a bill of exceptions or transcript.
- Disparity in training for all court reporting personnel, specifically digital official court reporters, courtroom clerks and other court staff whose essential responsibility is to make and preserve the verbatim record of a court proceeding.

Therefore, the Nebraska Supreme Court appointed the Effective Strategies for Making the Court Record Work Group (Court Record Work Group) to assess the process currently used by the courts in Nebraska to determine the most sustainable way to preserve the official record by continuing to support the use of both official court reporters and courtroom clerks, including:

- Reviewing and seeking necessary amendments to current statutes
- Reviewing and updating current court rules
- Evaluating best practices for electronic retention of the record and exhibits
- Evaluating the job requirements for court reporting personnel
- Evaluating the education, training and experience necessary for court reporting personnel
- Evaluating the "autonomy" of the court reporter and the impact this has on costs, non-uniformity of preserving the record and access to the record after the court proceeding and when the court reporter is no longer employed by the court

## A. Effective Strategies for Making the Court Record Work Group

To provide oversight and guidance throughout the project, the Nebraska Supreme Court appointed the 20-member Effective Strategies for Making the Court Record Work Group consisting of judges and court reporting personnel from District, Separate Juvenile and County Courts; representatives from the Nebraska Court Reporters Association (NeCRA); a contract transcriptionist; and administrative representatives from the Supreme Court and Administrative Office of the Courts and Probation. Justice Jeffrey Funke and Justice John Freudenberg served as co-chairs of the work group.

- Justice Jeffrey Funke, Nebraska Supreme Court (*Co-Chair*)
- Justice John Freudenberg, Nebraska Supreme Court (*Co-Chair*)
- Judge Stefanie Martinez, District Court, 2<sup>nd</sup> Judicial District
- Judge Robert Otte, District Court, 3<sup>rd</sup> Judicial District
- Judge Horacio Wheelock, District Court, 4<sup>th</sup> Judicial District
- Judge Derek Weimer, District Court, 12<sup>th</sup> Judicial District
- Judge Linda Porter (Ret.), Separate Juvenile Court, 3<sup>rd</sup> Judicial District
- Judge Chad Brown, Separate Juvenile Court, 4<sup>th</sup> Judicial District
- Judge Thomas Zimmerman, County Court, 3<sup>rd</sup> Judicial District
- Judge John Rademacher, County Court, 9<sup>th</sup> Judicial District
- Judge Edward Steenburg, County Court, 11<sup>th</sup> Judicial District
- Wendy Wussow, Nebraska Supreme Court Clerk
- Tyler Grooms, District Court Courtroom Clerk for Judge Lori Maret
- Sondra Petersen, RMR, CRR, CSR, Official Court Reporter for Judge Julie Smith, NeCRA representative
- Kris Riekenberg, RPR, Official Court Reporter for Judge Rick Schreiner, NeCRA representative
- Ashley Riggle, Digital Official Court Reporter for Judge Andrew Jacobsen
- Linda Rohman, General Reporting Service, County Court contract transcriptionist
- Corey Steel, State Court Administrator, AOC
- Jennifer Rasmussen, Deputy Administrator for Information Technology, AOC
- Amy Prenda, Deputy Administrator for Court Services, AOC (*staff to the work group*)

The full work group met eight times over the course of the project.<sup>4</sup> This is in addition to the multiple meetings held by three smaller work groups.

**Statutes and Rules Sub-Work Group:** To review the statutes and rules related to court reporting personnel and making the court record to ensure there is uniformity and transparency across the state. (*Chair:* Corey Steel, State Court Administrator)

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<sup>4</sup> November 14, 2019; February 13, 2020; October 23, 2020; October 30, 2020; November 12, 2020; November 24, 2020; December 8, 2020; and January 28, 2021

**Technology and Software Sub-Work Group:** To develop standards for creating and retaining the record in both county and district court, including, but not limited to, standards for equipment and software purchase and maintenance, audio files and notes storage, courtroom procedure, and transcript requests. (*Chair:* Jennifer Rasmussen, Deputy Administrator for Information Technology)

**Personnel and Qualifications Sub-Work Group:** To develop effective practices to ensure those persons tasked with making, preserving and/or transcribing the record are qualified to do so. (*Chair:* Amy Prenda, Deputy Administrator for Court Services)

To guide the work of the work group and the sub-work groups, the members reviewed information from a variety of sources, including, but not limited to:

- *Nebraska District and Juvenile Court Record Committee: Final Report* (April 28, 2015)
- *Providing consistent and transparent records in the courts across the state*, Report from the Ability of District Courts to Produce Audio Record Subcommittee, the Ownership of the Record Subcommittee, and the Exploration of the quality of the current County Court Record; Chief Justice's 2018 Leadership Conference (May 11, 2018)
- *Digital Audio Recording: Making the Record*, Wisconsin Court System, YouTube video (November 2, 2018)
- *Report of the Making the Record Committee*, Supreme Court of Wisconsin (Approved August 3, 2018)
- *Guiding Principles on the Use of Digital Audio Record*, Supreme Court of Wisconsin (November 2019)
- Resources on stenographic court reporting provided by Sondra Petersen, RMR, CRR, CSR, Official Court Reporter for Judge Julie Smith, NeCRA representative
- Resources on digital court reporting provided by Linda Rohman, General Reporting Service, County Court contract transcriptionist
- Responses to a survey of the official court reporters, district court courtroom clerks and clerk magistrates (county court courtroom clerk and other court personnel)

## **B. Overview of Court Reporting Personnel**

The Nebraska courts make and preserve a verbatim record of court proceedings through the use of machine shorthand or a digital recorder. Court reporting personnel include: official court reporters (stenographic and digital), courtroom clerks (district and county), and other court personnel.

*Official Court Reporters:* Official court reporters (OCR) are currently at-will employees of the Nebraska Judicial Branch who are subject to the Supreme Court's general administrative authority pursuant to Neb. Const., art. V, sec. 1, and serve under the direction of the district and separate juvenile court judges who appoint them. OCRs must provide their own hardware and software. Pursuant to the Nebraska Supreme Court Rules, a stenographic OCR's

professional competency is demonstrated by having passed an examination conducted by such entities as the State Court Administrator designates and also by meeting minimum transcription standards. See Neb. Ct. R. § 1-204(B)(1) and (2). A digital OCR's professional competency is demonstrated by meeting minimum transcription standards, including passing both the American Association of Electronic Reporters and Transcribers (AAERT) Certified Electronic Court Reporter (CER) test and the AAERT Certified Electronic Transcriber (CET) test. See Neb. Ct. R. § 1-204(B)(3). OCRs must complete continuing education requirements through Judicial Branch Education and are subject to post-hiring competency evaluations.

*Courtroom Clerks:* Courtroom clerks are employees of the Nebraska Judicial Branch who are subject to the Supreme Court's general administrative authority pursuant to Neb. Const., art. V, sec. 1. As an employee of the court assisting in the district court or separate juvenile court (district court courtroom clerk) or county court (county court courtroom clerk), they are under the control or supervision of the Nebraska Supreme Court or the judge they serve and responsible for recording testimony by the use of digital recording equipment supplemented by logging procedures. See Neb. Ct. R. § 1-204(A)(3). A courtroom clerk's professional competency is demonstrated by meeting the minimum requirements, including training in the use and maintenance of digital recording equipment, proficiency in note taking and logging procedures, knowledge of courtroom procedure and legal vocabulary, and knowledge of proper admission of exhibits. See Neb. Ct. R. § 1-204(E). Courtroom clerks must complete continuing education requirements through Judicial Branch Education and are subject to post-hiring competency evaluations.

*Other Court Personnel:* Other court personnel are employees of the Nebraska Judicial Branch who are subject to the Supreme Court's general administrative authority pursuant to Neb. Const., art. V, sec. 1. As court personnel they are under the control or supervision of the Nebraska Supreme Court or the judge they serve, responsible for recording testimony by the use of digital recording equipment supplemented by logging procedures, and must meet the minimum qualifications as a courtroom clerk. See Neb. Ct. R. § 1-204(A)(4) and Neb. Ct. R. § 1-204(E). Court personnel must complete continuing education requirements through Judicial Branch Education and are subject to post-hiring competency evaluations.

#### **56 District Court Judges**

45	Stenographic Official Court Reporters
6	Digital Official Court Reporters
4	District Court Courtroom Clerks
1	Vacancy

#### **12 Separate Juvenile Court Judges**

8	Stenographic Official Court Reporters
2	Digital Official Court Reporters
2	District Court Courtroom Clerks

## **58 County Court Judges<sup>5</sup>**

- 39 County Court Courtroom Clerks
- 19 Other Court Personnel (e.g., Judge, Clerk Magistrate, Assistant Clerk, Records Clerk/Cashier, other)

### **C. Orientation, Training and Education**

While the competency standards for court reporting personnel are provided for in Nebraska Supreme Court Rule, the Nebraska Judicial Branch and Judicial Branch Education have not developed sufficient orientation training and education or continued training and education for *all* court reporting personnel with the exception of stenographic official court reporters. All new Judicial Branch employees, including court reporting personnel, must complete orientation and must earn a minimum of eight judicial branch education credits per year.

The Judicial Branch Education Standards specifically provide standards for county court employees and official court reporters, but do not provide specific standards for courtroom clerks or other court personnel responsible for making and preserving the court record. For official court reporters, the Judicial Branch Education Standards also require the Nebraska Official Court Reporters Association to administer the “second phase” of the official court reporters education and develop continuing education on specific responsibilities and duties of the court reporter. However, because the Nebraska Official Court Reporters Association has been inactive for at least 10 years, this is not being done for all official court reporters. While the Nebraska Court Reporters Association (NeCRA), an independent professional association for stenographic official court reporters, has filled this need by providing stenographic official court reporters with the second phase of orientation and continuing education, NeCRA does not as a private association offer orientation or continuing education to a digital official court reporter. See Neb. Ct. R., art. 5, Appendix A.

For courtroom clerks and other court personnel, Neb. Ct. R. § 1-204(E) provides competency shall be demonstrated by: 1) successfully completing training on the use and maintenance of digital recording equipment; 2) ability to promptly diagnose and correct routine malfunctions; 3) proficiency in note taking and logging procedures; 4) knowledge of courtroom procedures and legal vocabulary; and 5) knowledge of the proper admission of exhibits to be included in the bill of exceptions. While a *Court Reporting Personnel* manual was recently developed by Court Services Division and Judicial Branch Education (JBE), there has been very little initial or continuing training or education developed by Court Services Division or JBE to support the court reporting personnel assisting in the district and county courts. A survey asking the clerk

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<sup>5</sup> In county court, the list only reflects the AOCP has 39 individuals officially hired as county court courtroom clerks. However, it does not accurately reflect how many other court staff who may be serving as court reporting personnel and assisting in the courtroom with setting up and monitoring the digital recording equipment during a court proceeding.



magistrates what type of training on Liberty Recorder they or their court reporting personnel received was completed and the summary of the 42 responses included:

- Watched a webinar on how to run Liberty Recorder
- Had a one day training when Liberty Recorder was first put in place
- Trained by Clerk Magistrate/other court staff
- None or not much training
- No formal training, just learning from the previous clerk and help when needed from the JUSTICE Business Analysts or Tech support
- Very little – it was just learn as you go
- Self-taught
- Read the manual
- Education has lacked in this area

## II. STATUTES AND COURT RULES

The Statutes and Rules Sub-Work Group chaired by Corey Steel, State Court Administrator, reviewed the statutes and rules related to court reporting personnel and making the court record to ensure there is uniformity and transparency across the state. Based on the efforts of this sub-work group, the Court Record Work Group has recommendations for proposed amendments to court rules that will address the current challenges and long term issues experienced by the Supreme Court, Court of Appeals, Administrative Office of the Courts and Probation (AOCP), and the trial courts in creating, producing and preserving the court record including the:

- 1) Decline in official court reporter resources;
- 2) Efficient and timely production of transcripts and bills of exception; and
- 3) Ability to more readily access the court record, which will bring more transparency to the court process.

An initial issue the Court Record Work Group addressed was whether Neb. Rev. Stat. § 24-1003 or § 43-2,123 prohibited the work group from recommending the *Nebraska Supreme Court Personnel Policies and Procedures* apply to official court reporters, who currently are at-will employees.

All court reporting personnel, as employees of the Nebraska Judicial Branch, are subject to the Supreme Court's general administrative authority pursuant to Neb. Const., art. V, sec. 1. Neb. Rev. Stat. § 24-1003, in part provides, "[c]ourt reporters and other persons employed to perform the duties required by such rules shall be appointed by the judge under whose direction they work." Neb. Rev. Stat. § 43-2,123, in part provides, "[e]ach judge of a separate juvenile court shall appoint his or her own court reporter, bailiff, and other necessary personal staff...The salaries of the bailiff and other necessary personal staff of the separate juvenile court

shall be fixed by the presiding judge, subject to the approval of the board of county commissioners or supervisors, and shall be paid out of the general fund of the county.”

After research and analysis of Neb. Rev. Stat. § 24-1003, including reviewing the statutory history, it appears the legislative intent of LB647 (1974) was for court reporters to become state employees paid by the Supreme Court according to “prescribe[d] uniform salary schedules for such employees.” In addition, LB647 specifically deleted language providing court reporters serve at the pleasure of the district judge, and added language stating “[t]he Supreme Court shall provide by rule for the recording and preservation of evidence in all cases in the district and separate juvenile courts and for the preparation of transcripts and bills of exceptions.”

While Neb. Rev. Stat. § 43-2,123 permits each judge of a separate juvenile court to appoint his or her court reporter, this section does not permit the judge to set the salary for the court reporter, which is consistent with the LB647 amendments made to Neb. Rev. Stat. § 24-1003. With the passage of LB647, neither Neb. Rev. Stat. § 24-1003 nor § 43-2,123 prohibit the Nebraska Supreme Court from amending the rules for making and preserving the verbatim record and changing the employment status of official court reporters.

### **Recommendation 1**

The Court Record Work Group determined no amendments to the statutes are necessary. Current statutes are consistent with the recommended amendments to the court rules.

### **Recommendation 2**

The Court Record Work Group recommends the Nebraska Supreme Court amend its court rules pertaining to court reporting personnel as proposed in **Exhibit A**. Proposed amendments by rule number and the intent of the proposed amendment are as follows:

- **§ 1-201** – Deletes language that makes official court reporters at-will employees of the judges who hire and appoint them. Adds a new subsection to clarify between the hiring and appointing of official court reporters and the contracting with official court reporters. A judge of the district and separate juvenile court will have the ability to hire, appoint and contract for an official court reporter with the approval of the Supreme Court or the State Court Administrator. An official court reporter will no longer be an at-will employee and, instead, the hiring, evaluating, disciplining and terminating must be in accordance with the *Nebraska Supreme Court Personnel Policies and Procedures* manual. With this amendment, amendments will need to be made to the *Nebraska Supreme Court Personnel Policies and Procedures* manual and job descriptions for Court Reporter I and Court Reporter II.
- **§ 1-202** – Clarifies that the oath court reporting personnel must take is the oath provided in the Nebraska Constitution (art. XV, sec. 1).

- **§ 1-203** – Clarifies the duties of court reporting personnel, including their responsibility to perform any other duties as assigned not only by the hiring and appointing judge, but also as assigned by the Supreme Court or State Court Administrator. Allows an individual to request an audio version of a court proceeding. Prohibits an individual from transcribing the audio version, except in accordance with the rules. Provides guidelines for court reporting personnel to follow before providing the audio version. See Neb. Ct. R. § 6-1405. Deletes language that provides preparing a transcript is considered a freelance activity.
- **§ 1-204** – Allows the State Court Administrator to approve an individual as an official court reporter if the individual has a similar certification as required by the rule (certified stenographic court reporter or digital court reporter) or prior court experience. Deletes language that required an official court reporter meet the testing requirements as provided for in the rule before being initially appointed or reappointed. The current language limits the Nebraska Supreme Court’s ability to retain and reappoint official court reporters, especially those who have been with the Supreme Court for a number of years. Adds the “ability to accurately type on a computer while simultaneously monitoring a proceeding” as an additional competency requirement to serve as a courtroom clerk. With this amendment, revisions will need to be made to the district court courtroom clerk and county court courtroom clerk job descriptions.
- **§ 1-205** – Deletes this rule that allows the judge to determine the place of residence of the official court reporter or courtroom clerk. Harmonizes with the amendments made to § 1-206 that provides the Nebraska Supreme Court will determine the principal office location for the judge and the court reporting personnel.
- **NEW § 1-205** – Creates a new court rule requiring official court reporters to comply with the technology standards approved by the Nebraska Supreme Court. This includes requiring official court reporters to use software programs approved by the AOCB; uploading electronic files, including a stenographic court reporter’s dictionary, to a centralized repository; and requiring contracting official court reporters to comply with the technology standards.
- **§ 1-206** – Provides in judicial districts with more than one county, the Nebraska Supreme Court, not the judge, will determine a courthouse in the judicial district to serve as the principal office for the judge and the court reporting personnel.
- **§ 1-207** – Clarifies in those instances when court reporting personnel are temporarily reassigned, reimbursement will be in accordance with the AOCB travel policies. Deletes language that provides reimbursement “for all necessary and actual expenses incurred” and “[m]ileage in such instances will be paid to and from the place of residence of the assigned court reporting personnel.”

- **§ 1-208** – Allows for the temporary judge and the appointing judge to coordinate whose court reporting personnel will assist the temporary judge while he or she is substituting for the appointing judge. Deletes language that requires the appointing judge’s court reporting personnel to serve, “unless otherwise directed by the appointing judge.”
- **§ 1-209** – Clarifies court reporting personnel shall be reimbursed in accordance with the AOCF travel policies.
- **§ 1-210** – Clarifies that once court reporting personnel for the district or separate juvenile court leaves employment for whatever reason or becomes disabled or incapacitated, the trial records and documents are the property of the trial court and shall be transferred to the clerk of the district court. Clarifies court reporting personnel for the county court must comply with the *Uniform County Court Rules of Practice and Procedure* for managing trial records and documents.
- **§ 1-211** – Clarifies and provides: 1) examples of freelance activities (e.g., depositions, arbitrations, grand juries, mental health board hearings, and any non-Judicial Branch public or private agency or organization hearing or meeting are examples of freelance activities; transcribing court proceedings is no longer considered a freelance activity); 2) when freelance activities can and cannot be engaged in; 3) who must pre-approve leave to engage in freelance activities; and 4) the appropriate leave that can be used (approved accrued leave). Deletes language that allows a judge or the State Court Administrator to make an exception for what is a freelance activity. Deletes the \$10 fee collected by the State Court Administrator when a public entity has permission from the State Court Administrator to use state-owned equipment for freelance reporting activities. With these amendments, revisions will need to be made to the official court reporter timesheet.
- **§ 1-212** – Clarifies the process for using substitute court reporting personnel, including contracting with a substitute reporter. Deletes “per diem” and reimbursement for “actual and necessary expenses” language. Therefore, if a judge contracts with a substitute reporter, it is on a contract basis at a rate determined by the State Court Administrator.
- **§ 1-213** – Harmonizes with other rule amendments so a judge may contract with a substitute official court reporter if his or her courtroom clerk is unavailable.
- **§ 1-214** – Harmonizes with other rule amendments, and deletes language that requires an official court reporter to find and pay for a substitute reporter if the official court reporter takes vacation at any time other than when the judge takes a vacation.

- **§ 1-215** – Corrects a reference to a federal code and harmonizes with other rule amendments and the current *Nebraska Supreme Court Personnel Policies and Procedures*.
- **§ 1-216** – Deletes rule, therefore, eliminating the Nebraska Official Court Reporters Association. This association is inactive and has become obsolete. Judicial Branch Education will assume the responsibility for improving court reporting by all court reporting personnel. With this amendment, amendments will need to be made to the *Judicial Branch Education Standards*, Appendix A.
- **RENUMBERED § 1-216 (previously § 1-217)** – Eliminates language that requires an official court reporter who voluntarily leaves his or her position to prepare a bill of exceptions or transcript. If an official court reporter leaves his or her position for whatever reason, then a transcript or bill of exception will be prepared by a reporter “as assigned by the Administrative Office of the Courts and Probation in consultation with the judge and may be the official court reporter who prepared the record, the successor, or a substitute.” Harmonizes with other rule amendments.
- **RENUMBERED § 1-217 (previously § 1-218)** – Updates the rule to include additional personnel policies that apply to court reporting personnel.
- **RENUMBERED § 1-218 (previously § 1-219)** – Eliminates the specific per-page and copy fees from the rule. Adds language that would allow for a fee to be collected if an audio version of a court proceeding is requested. Provides the fees will be according to a fee schedule “determined by the State Court Administrator and approved by the Nebraska Supreme Court.”

### Recommendation 3

The Court Record Work Group recommends the Nebraska Supreme Court adopt a per-page and audio version fee schedule as proposed in **Exhibit B**. The Court Record Work Group also recommends the State Court Administrator in consultation with the Supreme Court review the fee schedule annually so adjustments can be made in a timely manner. Removing fees from court rule will provide the Nebraska Supreme Court and State Court Administrator with greater flexibility to set a fee that is fair, transparent and reflects the current market for the service provided by court reporting personnel.

### Recommendation 4

The Court Record Work Group recommends the “Range of Applicability” of *Nebraska Supreme Court Personnel Policies and Procedures* manual be amended to include official court reporters as proposed in **Exhibit C**.

### III. TECHNOLOGY AND SOFTWARE

The Technology and Software Sub-Work Group, chaired by Jennifer Rasmussen, Deputy Administrator for Information Technology, reviewed the survey results, discussed the current barriers to ensuring the preservation and access to the court record, reviewed other state and federal requirements for preserving the integrity of the record, and created a document that delineates proposed technology standards that if adopted would ensure the preservation of the court record through its designated retention period.

#### Recommendation 1

The Court Record Work Group recommends the Nebraska Supreme Court adopt the *Making and Preserving the Court Record – Technology Standards* as proposed in **Exhibit D**. This document delineates standards for preserving the court record, which must be followed by stenographic court reporters, digital court reporters, contract court reporters, courtroom clerks and other court personnel and provides:

- Definitions
- Equipment standards (hardware and software, set up and configuration of equipment, daily shutdown procedures)
- Storage and retention standards
- Technical support
- Requirements for contract reporters

#### Recommendation 2

The Court Record Work Group recommends the State Court Administrator dedicate within the budget the funds necessary to: 1) provide equipment (e.g., hardware, software) to all official court reporters who require such equipment in order to meet the requirements provided in the Nebraska Supreme Court rules and technology standards for making and preserving the court record; and 2) create and support a Judicial Branch centralized repository to store audio and court record files.

### IV. PERSONNEL AND QUALIFICATIONS

The Personnel and Qualifications Sub-Work Group, chaired by Amy Prenda, Deputy Administrator for Court Services, reviewed the general qualifications and Judicial Branch Education resources for court reporting personnel and the survey results and discussed the current barriers to hiring and retaining court reporting personnel. In the course of their review to ensure those persons tasked with making, preserving and/or transcribing the record are qualified to do so, made recommendations for:

- 1) Amendments to the Supreme Court rule that provides for general qualifications and definitions. See proposed amendments to Neb. Ct. R. § 1-204.
- 2) Amendments to the Supreme Court rule that provides for what is considered freelance so transcripts, like bills of exceptions, can be done during the business hours of the court day. See proposed amendments to Neb. Ct. R. § 1-211. With these amendments, revisions will need to be made to the official court reporter timesheet.
- 3) Amendments to the *Judicial Branch Education Standards* so the standards address all court reporting personnel. See proposed amendments to Neb. Ct. R. § 1-216.
- 4) Development of education and training for court reporting personnel, including developing resources to support court reporting personnel in meeting the competency requirements in Neb. Ct. R. § 1-204.
- 5) Revisions and updates to the *Official Appointment* and *Official Oath* for court reporting personnel.

### **Recommendation 1**

The Court Record Work Group recommends the AOC's Operations Division review the Court Reporter I, Court Reporter II, District Court Courtroom Clerk, and County Court Courtroom Clerk job descriptions. Revisions to the job descriptions will be necessary if there are amendments to the Nebraska Supreme Court rules. NOTE: There are revisions that should be made to the job descriptions for official court reporters and courtroom clerks regardless of the proposed amendments to the rules to ensure the positions are filled with qualified candidates who have the knowledge, skills and abilities necessary to take the verbatim record. Proposed revisions are in **Exhibit E**.

### **Recommendation 2**

The Court Record Work Group recommends the AOC's Operations Division modify the official court reporter timesheet. Revisions will be necessary to the timesheet if there are amendments to the Nebraska Supreme Court rules. For example, official court reporters will no longer need to record "transcript preparation/attendance not required (TPANR)" and "transcript preparation/on site and attendance required (TPON)." Proposed revisions are in **Exhibit F**.

### **Recommendation 3**

The Court Record Work Group recommends the Judicial Branch Education (JBE) Advisory Committee amend the *Judicial Branch Education Standards* as proposed in **Exhibit G**. The work group also recommends JBE facilitate and coordinate an internal working group comprised of court reporting personnel to assist in the mentoring of newly hired court reporting personnel and the developing of training and education specific to all court reporting personnel. NOTE: There are revisions that should be made to the *Judicial Branch Education Standards* regardless

of the proposed amendments to the rules to ensure court reporting personnel have the knowledge, skills and abilities necessary to make the verbatim record.

#### **Recommendation 4**

The Court Record Work Group recommends the AOC's Court Services Division revise and update the *Official Appointment* and *Official Oath* so a judge can easily modify the appointment and oath for all court reporting personnel and access them on the Judicial Branch website. Proposed revisions are in **Exhibit H**. The Court Record Work Group also recommends the AOC notify judges of the updated *Official Appointment* and *Official Oath*, where it can be found on the website and remind them Nebraska Supreme Court rule requires all court reporting personnel take an oath of office, a copy of which must be on file with the AOC's Operations Division.

#### **V. CONCLUSION**

Though official court reporters, both stenographic and digital, have aptly served the Nebraska Judicial Branch in making, preserving and transcribing the official record of court proceedings, difficulties in maintaining such positions have arisen. As a result, the Court Record Work Group determines that revisions to the Judicial Branch's rules, policies and procedures are necessary to ensure the making and preserving of the official record. Official court reporters remain an acceptable method to make and preserve the official record and additional resources, including hardware, software and training should be made available to assist them in that endeavor. Additionally, other personnel should be hired, trained and equipped to carry out the duty of making and preserving the official record. The recommendations set forth above are intended as a pathway to maintain preparation of the record.