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Calendar page 19, Calendar Number 672, File Number 729, Substitute for House Bill 6385, AN ACT CONCERNING REFORM OF THE PROBATE COURT SYSTEM as amended by House Amendment Schedules A and B, favorable report of the Committee on Judiciary and Appropriations. Clerk is in possession of amendments.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you -- Mr. President. Mr. President, I move acceptance of the Joint Committee's favorable report and passage of the bill.

THE CHAIR:

Acting on acceptance and approval, sir, would you like to remark further?

SENATOR MCDONALD:

Yes, Mr. President. Mr. President, I just wanted to first state that this issue has been one that we have been wrestling with in the General Assembly for several years now and in particular in the Judiciary Committee, because of its importance to the citizens of the State of Connecticut. It has been an extraordinarily thorny issue, but one that has demanded a lot of attention from members of the

Judiciary Committee and the Administration, as well as the Judicial Branch.

Mr. President, I am indebted deeply to Senator Doyle for taking an extraordinary leadership role this year in helping to craft a solution for our probate court problems. I am also indebted to Senator Roraback, who worked just as tirelessly on this issue as well as the members of the House and the Executive Branch.

Mr. President, because the leading edge of this work was done by Senator Doyle, with your permission, I would like to yield to him for purposes of explaining the bill and that way you don't have to listen to this voice anymore either.

THE CHAIR:

That's all right, Senator McDonald.

Senator Doyle, do you accept the yield?

SENATOR DOYLE:

Yes, thank you,, Mr. President.

THE CHAIR:

Please proceed.

SENATOR DOYLE:

Thank you. I think at this point before I get into it I will -- since the file copy is replaced by a

strike-everything amendment, I'll ask the Clerk please call LCO 7720, which was previously designated House A, and I be allowed to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 7720, which was previously designated House Amendment Schedule A.

THE CHAIR:

The Senator has asked for summarization.

Seeing no objections, please proceed, sir.

SENATOR DOYLE:

Thank you, Mr. President. I first move adoption of the amendment.

THE CHAIR:

Motion is on adoption.

Without objection, please proceed.

SENATOR DOYLE:

Thank you, Mr. President. As I said the -- this House A strikes the file copy so this House A, for all intents and purposes, becomes the bill. And what House A is really is the culmination of many weeks and actually months of work by a -- a probate court reform group that consisted of many members including

representatives from the Governor's office, from OPM, Representative Godfrey, who really was the de facto chair of the committee, he didn't official get a tile but he did lead the charge on it, Representative Klarides, Representative O'Neill, Representative Fox, and Representative McCrory from the House. In the Senate I was proud to work on it also with as the -- previously stated, Senator McDonald and the Ranking Member Senator Kissel, both worked hard on this bill.

In addition, long hours were spent by the Probate Court Administrator, Paul -- Judge Knierim, also the president of the Probate Assembly, Judge Fred Anthony. All of us spent a long time in closed doors downstairs working on this bill. Of course this issue has been around for many years, it's not a -- a recent phenomenon or a recent development. We've had provisions in our statutes that, over the last eight or ten years, we're trying to encourage our current court system to merge and get the numbers down.

Unfortunately, the voluntary approach really wasn't too effective. We did have some successes, but the day of reckoning was coming, it actually came sooner than anticipated. And really this year, the day of reckoning is December of this year, 2009. We

thought the solvency of the Probate Court Administration Fund would last a few more years, but with our current, you know, severe fiscal crisis that we're all aware of, the date -- the existing bankruptcy of the system would occur in December of this year if we do nothing.

This is, again, not a surprise but it is a sudden acceleration of the problem. And the magnitude of the problem is, I'll just emphasize, if we do nothing -- I don't really think we have a choice to do nothing -- but if we do nothing, the deficit in the current fiscal year 2010 would be 6.6 million, and it would go up to fiscal year '11 to 8.4, '12 would be 8.5, '13, 8.9 and 9.2 in fiscal year '14 and fiscal year '15, 9.6.

You know, the reality is -- the current probate system, as we know it, is broken, and it's our job and responsibility to repair it. And I will -- want to point out, that unfortunately -- I was involved and I did support it -- but back in 2002, we did contribute to the neglect and the problems where we are today. Because back in 2002, in an earlier financial crisis and it was in a bipartisan fashion, but we did -- the legislature did take 15 million from the Probate Court

Administration Fund, and the legislature at that time also decided not to pay for indigent funds.

So we actually, you know, unfortunately participated in the -- where we are today. Now the plan before us today is difficult, but what we really will do, it would lead to the consolidation of our 117 probate courts into a range of 44 to 50. And also, I think, will lead to a more professional court in the sense that, of the -- whatever number of courts we end up with in the range 44-50, you'll have -- they're open 40 hours a week, where the judge may not be there all the time, but you will have court clerks and staff there. Which will really be consumer friendly for our constituents, whereas they don't have to go to court in a certain morning-window during the week. They can go at any time to meet with our clerks and get their work done, which I think is a good function of this.

This bill does a number of other things. It consolidates the accounting functions, currently we're kind of three different islands, this will consolidate all of the accounting functions of the individual probate courts into the Probate Court Administrator's Office, which of course, is a good thing, it would lead to economies of scale.

It also would create other things -- it also would create a position of the Probate Court Magistrate, which some of our retiring or displaced judges could take. It also would create the position of Attorney Probate Referee, which is an opportunity for some of our lawyers to get involved in the system and maybe some day consider running for office for the probate position or probate court.

But the real -- the real genesis and the heart of the bill is, we have to create a new map; like I said, we have to go from 117 down to 44 to 50, and in all likelihood it probably would be 50. But the way to achieve it, of course, is difficult, many in the chamber here are aware of how difficult it is, but the committee decided it's best to have the probate judges themselves take the first crack at it. And the Probate Court Assembly, who in the past have worked hard and they've had difficult discussions about different maps and bills, but I think in this situation, if this plan does pass, the probate judge -- it's important to have them have the first opportunity to craft the new face of Connecticut and the probate court judges.

So the Probate Court Assembly will meet, you

know, if this is passed today and signed by the Governor soon, the Probate Court Assembly will get together and try to come up with a map themselves. I think that's a good thing, I think it's important to have our judges have impact on the future of the court system.

Now after the probate court judges come up with their plan, it then would go to the Probate Redistricting Commission, which consists of 12 members, it's a bipartisan commission, six Dems -- I should -- the appointing authorities are six Dems and six Republicans, and this Commission will receive the -- which we hope, the report from the Probate Court Assembly and from that they will move forward to finalize the plan.

They don't necessarily have to be bound by the exact recommendations, but as we discussed in the committee, the practical matter is we want to rely on the efforts and work of the Probate Court Assembly. And assuming they accomplish their mission, I would think the Probate Court Redistricting Commission would accept it, because it would make their life easier and it would -- and a lot of the hard work would have been done by the Probate Court Assembly.

And again, the criteria for -- the new court system would be to have in the range of the -- for the assembly and the commission, to have 44 to 50 courts or -- and that's the ultimate goal, that's a firm goal. However, you have to get -- the goals are to have the population of each court to have 40,000 or a weighted workload of 3,000, which is a calculated formula that the Probate Court Assembly -- I mean the Probate Court Administrator has. It just kind of proves that there are -- it's really based upon the number of cases in the court, so there's an adequate workload.

And then there also are other conditions in terms of -- there's a proviso that doesn't -- that the Probate Court Assembly and the Commission can actually go below these two thresholds if they deem it possible, as long as they stay at the -- 44 to 50 range. So although the plans are to have and the goals to be strived for are courts of 40,000 or more, or a weighted work load of 3,000, under certain circumstances and depending on how the maps work out, it could be less, and that's clear in the bill.

Now after the Commission comes up to the recommendation, the Legislature would have a special

session in early- to mid-October to vote on this plan presented to us by the Commission. Now if it all goes smoothly, that would be the end of it. There are provisions in the bill that, if the Legislature doesn't pass it, the Commission can reconvene and bring prior recommendations to us.

But I mean, the bottom line is I know a lot of people, you know, in the chamber and out aren't happy with this decision, but our other options really -- I've emphasized in detail the financial situation wrong with the court, if we do nothing, we could -- other options really available, which I don't support, are people have talked about merging with the Superior Court System. The Superior Court System, which many of us know, really is not consumer-friendly, it's actually driven pretty much exclusively by attorneys and it's a very expensive and cold option. Our current Probate Court System, it's much more consumer-friendly and the truth is, it's not attorney-driven. There are quite a few attorneys, but the clerks work with our constituents going in there and many cases are -- are presided by our consumers -- constituents without lawyers.

So I would suggest if we're going to maintain

that consumer-friendly nature, and also I really think that the key is every person in the state of Connecticut, if they have a probate case, they don't have a place to go 40 hours per week, to go for a question to the clerk and really deal with their issues.

And now another issue and one of the other bills out there had -- why don't we just raise probate court fees and that can solve it? I think many in the chamber here aren't eager to raise any types of fees in light of where we are today, but even if we were to raise fees, for instance, somebody suggested raise fees 25 percent; a raise of fees 25 percent only generates 6.6 million per year, that doesn't solve our problem. This is a significant problem, we need to address it with a significant legislation here.

Now I do recognize that many in the chamber here are very concerned about this legislation and they really think that we don't need to do it. But this is a decision we have to make in light of the economy we are today. I believe today is the first vote we're going to make this year, whether over the next week and a half or later on in special sessions, difficult votes we're going to have to make. This is the first

vote we're going to make this session that truly hurts, and I don't deny it hurts. There may be some layoffs of court clerks, I don't look forward to it. There are some judges that may loose their jobs, but for the best interest of the state of Connecticut we have to look at the system objectively; I think this is a good system. Is it perfect? No. But we have to move forward and correct it. To do nothing is not an option, and I think -- I urge the chamber to support this amendment, and I thank you, Mr. President, for listening to me.

THE CHAIR:

Thank you, Senator Doyle.

Just for clarification, we are discussing the bill in concurrence with House A and B, okay?

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President. I can't speak more highly of Senator Doyle bringing this particular bill out, Senator McDonald, and my good friend and colleague Senator Roraback, who worked tirelessly on this.

As well as our new Chief Probate Court Administrator, Paul Knierim, who I had the pleasure of

serving with on the Judiciary Committee many years ago. And he left the good Legislature, went off private practice, and now in this new role has been handed the quintessential "hot potato," and has worked tirelessly, I've had many meetings with him regarding this reform proposal as it has moved through the system.

And of course, I think a tremendous amount of praise has to go to Governor Rell. She is unafraid of going and moving forward and trying to tackle things that are amiss.

And in a perfect world, we would keep the system that we have, I have no doubts. But we are in extraordinarily difficult economic times and tough times demand tough measures.

My understanding of Connecticut's probate court system is such that I believe that it started before we were -- even thought of possibly becoming a state. I believe that we had probate courts, here in the state of Connecticut, in colonial times, probably dating sometime to the mid-seventeenth century -- to the mid- to the late-1600s. And they served the people of the state of Connecticut well.

As that probate court system developed and

matured, it spread to every corner of the state of Connecticut. Primarily, although not exclusively, dealing with decedents and decedent's estates, individuals who have passed on and left their land to their children or their loved ones. It had to do with everything that we're all about as a small New England state. What mattered most, the family farm, the homestead, the settlement, the towns that we love to live in.

As our probate court system made it through one century after another, it naturally seemed to comport with the 169 municipalities that we have. Such that, I bet you there was a time where there were nearly 169 separate probate courts, one for each municipality. That was a picture-perfect, postcard view of Connecticut not that long ago.

In the 17 years that I have been lucky enough to serve here in the Legislature, I have witnessed the consolidation of probate court districts in a voluntary fashion. Sometimes the probate courts, themselves, have come to us as legislators as said, you know, we just want to try to develop an economy of scale, can you facilitate us by passing legislation that would allow the probate courts in Town X to meld

with Town Y? And we've done that.

Along the years we've also recognized that the system, because of the new burdens that have been thrust upon it, had changed its character. Some of those most difficult and pressing problems that we find in our urban communities, where people don't have the wherewithal to pay an awful lot of money into the system, there were intractable problems that these wonderful probate court judges took care of. And at the same time, in many of those probate court systems there was not an influx of the cash necessary to keep the system working.

And also to be very fair and honest to the probate court judges throughout the state of Connecticut, we as Legislators have on occasion, especially when the economy has been faltering, reached into their Probate Court General Account and withdrawn money. And so we have brought ourselves a little bit towards this point of crisis.

Senator Doyle is exactly correct, that if we allow the system to continue to run apace, it will run out of money. My understanding is that after this fiscal year it's broke and it will run out of cash. So it is not a situation that can be ignored, we have

got to do something.

Now unlike other longstanding systems, constructs that we've had in the state of Connecticut -- and the one that comes to mind is the Sheriff System and we changed that system. But we were motivated to change the Sheriff System in no small part because we felt that there were problems, redundancies, and other issues such that it was not, perhaps, meritorious enough to reach in and save. In other words, that system, by its very nature, had to be reformed.

And we changed it, we turned it into a Marshal System. We cut it into two and we have some of the marshals delivering papers, service of process, and there's a whole other area called the "Judicial Marshals." And you'll see their trucks bringing prisoners to and from court and all the other things that they do. And that's generally worked out pretty good. There's some things around the edges that we still have to get to, but that was a good reform.

In my heart of hearts, there is nothing in here in the probate court system that would merit reform at that level. I don't believe that the court system did anything wrong. I think that it tried to stay one step ahead at every turn, and yet here we are find

ourself with that proverbial Hobson's choice. None of the choices are great, none of the choices are good. And I've got to go back to the folks in my seven towns and tell my probate judges that we have got to change the system.

But I do believe fundamentally we have got to change the system. What better way than bringing everybody into the same room and trying to come up with a compromise, and that's what we have here before us. The compromise that was passed by a wide majority in the House and I'm hoping that at the end of the day today passes by a wide majority here in our Senate.

There are other things that will be brought out here in the form of amendments that are extraordinarily meritorious, I'm looking forward to debate regarding those proposals. Nonetheless, I stand here in support of this bill because I believe that at the end of the day it is a good faith effort to address a crying need, otherwise the system will collapse.

The best thing about this proposal in my mind is that it turns the matter back over to the judges and the Probate Court Assembly and gives them a finite period of time to try to chart their own fate. We are

not saying we have the perfect answer, we're going to initially turn it over to them. If that doesn't work out, we have to have a system in place to review whether they come up with something or not, pass judgment on that, and in an evenhanded manner -- not too far Republican, not too far Democrat, balanced -- and at the end of the day, work out a system that is ultimately fair and balanced and that we can afford.

There's a part of me that wonders whether we are looking at our future here in Connecticut in more ways than one. There are individuals that feel that this could be the first step towards the ultimate demise of the probate court system. I don't particularly believe that, I think we'll get to a happy medium and we'll want to keep this institution, but certainly we've already been experiencing consolidation.

There are those that I talk to in the business community or folks who have moved to Connecticut from other states outside of New England, who scratch their heads while acknowledging our beautiful, bucolic form of life, and say how can you guys exist in this day and age with 169 different municipalities? We have resisted change when it comes to our municipalities and local control, I'm one of those individuals who's

at the forefront of wanting to keep our 169 towns. But perhaps a rhetorical question to each and every one of us, we're witnessing an institution that has served our people well for over 300 years, and here is 2009 and now it has to change. I wonder if in the year 2011 we may be having a similar debate about 169 different municipalities. It's a system that we like. It's a system that has served us well, but unfortunately it is a system that we cannot sustain financially.

For that reason, Mr. President, the reality of the world that we live in today -- and with great thanks and congratulations to all the people that spent countless hours on this; and again, thanking Governor Rell for her outstanding leadership regarding this matter and Chief Probate Court Administer Pail Knierim, and with my deepest respects to all the probate judges in the seven towns that I represent in north-central Connecticut, I strongly support this bill. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark on the bill?

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I, too, rise in favor of the bill; however, I do have some concerns. One of the opening remarks by Senator Doyle was that this was created behind closed doors -- and that bothers me. Many of the probate judges that I've spoken to said the very same thing, and they had no seat at the table and they had no input on the overall bill.

So through you, to the proponent or to Senator Doyle, can he address that concern of mine, please. Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Thank you, Mr. President. Well any legislation is a negotiated document. And in the room talking about it there was the probate court administrator and the president of the Probate Court Assembly with -- that person is duly elected by all the probate judges in the state of Connecticut. So I would -- my position would be, in fact, that your judges and the judges throughout the state of Connecticut did have representation in the room. But I think it's impractical to expect the 117 people to be in the room

with us, you know, but there was ample representation for your judge and others in the room. Through you, Mr. President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I respect that answer, however, it seems odd to me that they would still have that concern. So somewhere along the line there was some miscommunication or lack of communication, because I did hear that from a number of judges, that they were not able to participate and this was something that was put together without their input. So I still believe that that concern remains.

One other question I have, through you, Mr. President, in my hometown my probate court was consolidated a number of years ago. I believe it was either 2004 or 2006, I don't remember which, but it has been a few years now -- but it was the towns of Watertown, Woodbury, and Bethlehem. And in doing so, there wasn't a great deal of support for that consolidation, so the probate judge and his staff were almost left on an island in creating his court. Can you speak to that? If this consolidation takes place,

what kind of backup, what kind of support will be given to these probate judges of these courts, if they're being forced to consolidate? I don't want to have these courts left on an island, as it were, without the proper support that they need. Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Yes, through you, Mr. President, I think that's the responsibility of our new Probate Court Administrator. Whatever -- he's had a role throughout the process, he will have a -- he will be an ex-officio member of the Commission to provide support. And then assuming everything goes as planned, and who knows what happens, but if it does, the new system is created, I believe it's a responsibility of the Probate Court Administrator to supervise, provide counsel, legal counsel as they currently do. They already currently provide a lot of counsel to all courts across the state of Connecticut.

So I think the appropriate person is Probate Court Administrator, who I personally served with years ago, and I have extreme confidence in his

abilities to address all concerns statewide. Through you, Mr. President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I thank the Senator for his answers. I don't know the Probate Court Administrator, I've never met him, but I hope that using your comments that he will follow through and his staff, because I think that's a very important part of this legislation. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark on the bill in concurrence with the House?

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President. Good evening.

THE CHAIR:

Good evening.

SENATOR DEBICELLA:

Mr. President, I rise in support of this bill. And I want to thank Senator Doyle, Senator Roraback, who was involved, and all the people who helped craft

the compromise, especially Governor Rell who was able, as she usually is, to bring all parties to the table to come to a reasonable, well-thought out conclusion.

And Mr. President, there's an old saying that a sign of a good compromise is that nobody is happy and I'm sure that you could find a lot of people who will find some fault with this bill. But the truth of the matter is is that the bill before us tonight is a very reasonable approach to consolidating our probate court system, while still keeping the local flavor that does make it so appealing as a way to handle some of life's toughest moments.

So Mr. President, my one question tonight, through you, to Senator Doyle, as it usually does, has to do with the dollars. And a question around the fiscal impact of this, the fiscal note has a lot of information on the impact to the Probate Court Fund, and that there's going to be a deficit early on in the surplus -- in FY '13 and '14. A question through you, to the proponent, Mr. President, is what is the impact on the General Fund of this bill, both in the years '10 and '11 and in the out-years? Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Mr. President, it's a complicated scenario we're dealing with, because there are some responsibilities that the General Fund is picking up in terms of the indigent fees. And although not part directly of the system, the multi-town children's courts are currently in the budget. That won't change, those are a smashing success, I think (inaudible) bipartisan, everyone agrees those are a success. And the General Fund will also pick up the health benefits for the retirees.

But that being said, the General Fund impact for fiscal year '11 -- the savings will be 4.4 to 5 in fiscal year '11, and then annually thereafter. But as you mentioned, by fiscal year '13 there will be a surplus for -- in the General Fund. And one of the concessions made in negotiations is unlike the current law, any surplus in the Probate Court Administrators Fund -- I know it's a little different now, but that's the general principle, currently they retain it -- under this new -- under the bill, if adopted, any surpluses would actually go back to the General Fund.

Now it's going to take us a little while to get

the surpluses, because we're dealing with a complicated process. But ultimately the net result of this difficult consolidation will be a surplus to the State of Connecticut. Through you, Mr. President.

THE CHAIR:

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President. And I thank the Senator for his answer. And I think it's a very well-crafted bill to allow us to do that, especially in the out-years -- we're going to need all the help we can get.

My question more narrowly crafted is that the PCAF is going to have a deficit of 2.9 million in FY '10 and 12.6 million in FY '11, so we're looking at about $15 million over the biennium. And being in budget negotiations right now, I just want to make sure that we don't need to be writing a check to the PCAF for $15 million on top of all of the good reforms that we're proposing today. So through you, Mr. President -- and I'm not sure if the proponent has the answer to this or not -- you know, will we have additional monies that were not accounted for in either the Governor's budget or the Appropriations

Committee's budget that we're going to have to budget for to implement this bill? Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Yes, through you, Mr. President, the answer is unfortunately, yes, you're going to have to. Neither the Governor's budget nor the Appropriations budget appropriate any monies towards this fund. So you (inaudible) -- the exact figure, I'll be honest, I don't know -- but you will have to over the next -- let's hope soon -- but whenever the budget is crafted it will have to reflect some of these costs. And I know that's unfortunate, but I guess -- I emphasize any -- these are short-term monies for the General Fund to get us to the threshold of fiscal year '13, where a surplus will be generated.

If we do nothing, we're much worse off. You know, this plan will save significant monies. And it takes some time to implement, because it's not a simple, little plan, the consolidation takes time. But you are correct, we will have to allocate funds in the near-term, but in the long-term we will be much

better off when -- I know at some point, I hope by fiscal year '13 times will be better -- but we should have a surplus into the General Fund. Through you, Mr. President.

THE CHAIR:

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President. And I know it's sometimes hard to think about fiscal year '13 when we're still trying to deal with the $800 million deficit we have in hand. But I think Senator Doyle is correct that even though we are going to have to invest some money in the budget this year to implement this, the long-term savings possibility of this makes it very, very attractive from a financial standpoint. It's just unfortunate we have more short-term pain that we're going to have to go through on top of the extreme pain we have already.

That being said, Mr. President, I do believe that this bill is worthy of support. I think that as we look at shrinking the number of probate courts, at the end of this process what you're going to be left with are professional courts that are run by members of the bar, unless they're grandfathered in, in districts

that are of a large enough size that it will justify them staying open 40 hours a week, full-time, like the bill now requires. This is a step in terms of professionalizing our probate court system, while still keeping its local flavor.

So Mr. President, I, again, thank everyone involved in the crafting of this bill and urge its adoption.

THE CHAIR:

Thank you, sir.

Will you remark?

Senator Witkos.

SENATOR WITKOS:

Thank you, Mr. President. When I arrived at the General Assembly as a member of the House of Representatives, I had the opportunity to serve on the Program Review and Investigations Committee. And during that year we did an analysis of the probate court system and at that time I was an ardent supporter of the individual courts. I listened to the arguments of the different members of the Probate Court Assembly that came to the public hearings, I think part of it was a personality clash between myself and former Probate Court Administrator, but

things have changed.

Those things -- some are financial and some are not. The financial things, I think they've been talked about already by -- we're starting to see red ink or we will see red ink in the Probate Court Administration Fund is because of the indigent cases, the children courts, and the fact that the large number of cases that are heard from the city courts take a lot of time, a lot of staff, but there's no money coming in through the fee structure.

And I thought long and hard of the bill that first came to us in a packet form, and then the committee that did a lot of work. And I applaud them for their effort to try to find some common ground for the probate court system. What once was good may not be now. And I'm concerned as others -- as to the cost associated with that, however, I feel very comfortable with language that's put into the bill before us. And that language that will become law, if and when this passes, which says that the budget that is prepared by the Probate Court Administrator shall reflect all the costs of not only his office, but the cost to operate the courts of probate. And the expenditures in the proposed budget shall not exceed anticipated available

funds. So this is not someone or a court that's going to go running rampant and spending dollars that we don't have, that's certainly not the goal here. In fact, I think we're tightening it up, financial aspects, by putting that language into law.

There's also a provision that says if the Probate Court Administrator, in an emergency case, needs to expend $10,000 or more, he or she will send notice to the clerk and also the presiding judge of the Probate Assembly. I think that's very important and that's -- we talked about transparent government, we're not trying to hide anything here. We're saying if there is an emergency case, those dollars will be made known and you will receive notice of that.

One of the issues I had some difficulty with the former Probate Court Administrator -- and I'm going to ask, through you, Mr. President, several questions to the proponent of the amendment, if I may.

THE CHAIR:

Senator Doyle.

SENATOR WITKOS:

Thank you. Through you, Mr. President, is there a mandatory retirement age that the probate court judges establish in our law? Through you, Mr.

President.

SENATOR DOYLE:

Through you, Mr. President, the answer is yes, and it's age 70.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you. And through you, Mr. President, approximately how many judges are nearing that retirement age, the mandatory retirement age?

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

I don't know the exact figure, but I believe it's in single digits, around seven or eight range.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you. And through you, Mr. President, I'm sure certain judges are concerned that they may lose their court if we're starting to merge them. Is there an incentive contained within the bill that might bring judges to accepting retirement? Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Mr. President, yes, and under current law, which we had extensive negotiations by the Commission -- I'm sorry, by the working group, but the -- under current law we have the voluntary incentives to get the courts to consolidate. Current law, it is a four-year incentive to judges if courts were merged and they were opted out. We maintain that, so any judge under this system, when ultimately -- if the commission's recommendations are approved by the Legislature -- and a judge happens to be opted out, not run again because of -- just opted out because of the consolidation. Or even if a judge -- two judges would run against them and one loses, the loser would be able to get four years additional retirement credit. So there is an incentive for our judges to, you know, to consolidate and that is in continuance -- conformance with current law. Through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you, Mr. President. And through you, we've heard over the past several years, and I know as a member of this body I have voted on them, there have been voluntary consolidations of probate courts. And through you, Mr. President, does Senator Doyle know of any probate courts or any requests from municipalities that said that those consolidations have not worked and they would ask to be individualized again, through you.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Mr. President, I am not aware of any recent merger that had come back and asked them to be divided. I think, far as I can tell, they're pretty successful, through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you. Now as we're moving -- one of the concerns that I had before as far as the costs are concerned and that would be with the benefits that are established -- and that would be health insurance for not only a judge or the judge's employee or employees.

Now under the language of the bill, from my read, those that retire from the court system, whether it be a judge or an employee, they would be required to pay 20 percent -- or the fund would pay 20 percent of the cost of their health care, and the employee would be required to pay 80 percent of their health care, is that correct? Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Mr. President, I think that's current statutory law, yes. Through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you. And I had a conversation outside the chamber discussing this bill, and current law for current sitting judges and their employees, the fund pays 100 percent of the cost of health insurance for the judge and their employees, is that not the practice currently? Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Yes, I think that's the current practice. Through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you. And through you, Mr. President, does this law as proposed amend the current practice of the 100 percent funding through the fund to judges and employees of the court? Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Mr. President, it's my understanding that the concern of health insurance not be a statute, but through probate court regulations under the -- I mean, I think this is the (inaudible) my colleague is getting at, the recently-negotiated SEBAC health insurance givebacks will be incorporated upon all the probate court judges and the probate court staff. Even though they're not state employees by regulation, they are kind of a hybrid, but they would have to abide by the terms of the SEBAC health insurance givebacks. Through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you, Mr. President. So I think that's a wonderful benchmark to say that currently that the Probate Court Administration Fund has been paying 100 percent of the cost for not only the judges, but all their employees. But now through the regulation and through the working group, they will be matching the same contributions that we, this body, have voted for the SEBAC state employees just not too long ago. I think that's a positive move and a step in the right direction.

Now I represent many, many small communities throughout the state, 11 to be exact -- and we've set a benchmark of a minimum of either 40,000 residents or an annual weighted caseload of 3,000. If I combine three of my communities together, it would cover roughly a -- 60 square mile radius. And although we wouldn't hit close to even probably 12,000 residents or the 3,000 annual weighted workload as required, is there a provision in the bill, through you, Mr. President, that would allow a court to cover those particular areas for, I would say a geographically

unacceptable radius for residents to have to drive to appear before a judge, through you.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Mr. President, the answer is yes. In Section 22 of the bill, again, the targets are populations of 40,00 and weighted workload of 3,000, those are the general working criteria. However, there is language that says in the alternative, the Commission may allow consideration of other factors and one explicit factor is geographic accessibility, another is availability of municipal facilities in the community of interest. But then (inaudible) there's a third one, a broad statement, basically of any other criteria deemed appropriate by the Commission. So this -- now, the really only firm number is the number of courts, there's clear discretion for the recommendations of the Probate Assembly and the Commission to bring back to us -- can have courts smaller and with geographic accessibility issues. Through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you, Mr. President. And through you, for legislative intent, would the proponent of the amendment believe that 20 miles would be a sufficient distance to expect one to travel to appear before a probate court judge? Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Mr. President, I would think 20 miles is, however, that's my opinion. I can't -- to be honest with you, I can't guarantee the recommendations of the Probate Court Assembly or the Commission to us. But I think that's a reasonable figure, through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you, Mr. President. I thank the Senator for his answers. I had an amendment drafted -- and I'm not going to call it -- that would have defined in statute the 20-mile radius. But I think that when the Probate Court Assembly, if they're not watching today, has the opportunity to review the transcript of the

debate here today, that we do have some considerations not only from Senator Doyle, but from myself and others that believe we'd like to target 20 miles as a concern that one would have to travel. Especially up in the northwest area of the state that I represent, public transportation is almost, virtually nonexistent. So if those people don't have family that can take them or if they don't have a car themselves, most likely they'd wait 45 minutes for a taxi cab to arrive to drive them to that location.

Through you, Mr. President -- well, to Senator Doyle, if we have targeted a number of 50 courts being the maximum number of courts, everything else that -- the criteria that is required will have to back into that number. Is that not correct, through you, Mr. President -- for the exceptions?

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Mr. President, that is correct. However, I will point out we have currently some very large courts, a lot of our big cities have large numbers of courts. So if there's concern of -- there's no chance you could have a small one, I think

there could be; because maybe some of the larger, urban courts could merge with some of the surrounding communities, which actually could lighten up the load in some of our northwestern Connecticut reaches. But again, I can't -- it's going to be up to the Probate Court Assembly, the Commission, Legislature to decide, but that's my thoughts. Through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you. And through you, Mr. President, at the end of the day, will this General Assembly have to vote either yea or nay on the redistricting plan that's presented to it from the Commission? Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Mr. President, yes, there will be a special session where the Legislature will vote on the plan presented.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you. So to be clear, this plan would not be adopted through a course of inaction by this body, is that correct? Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Yes, Mr. President. Through you, Mr. President, it is clear that the Legislature and the Governor have to sign a plan, present it, and approved by the Commission. If the Legislature fails to adopt anything, it would go back to the Commission. And you know, if it -- if no plan is ever accepted, there would be no consolidation. Through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you. So through you, Mr. President, if the Commission presented a plan to this body, we convene in special session, and it's something that we just can't swallow for whatever the reasons may be, maybe we want to see it tweaked here or tweaked over there, this body can reject it and send it back to have more work done on it, is that correct? Through you, Mr.

President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Yes. Through you, Mr. President, the answer is yes.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you, Mr. President. I once again, thank Senator Doyle for his answers. When we say, "try, try again," well this epitomizes that philosophy. We know that the system's broken, we know it's failing financially. This is a means of reducing the size of government, because we will pay this -- we will pay this as taxpayers, because if the money is not there, it's going to be funded out of the General Fund.

Now if we don't like for whatever reasoning the plan that is delivered to us, maybe you have a town that has to travel 45 miles or maybe you don't believe that the caseload or your judge should be in Band 2 or it's in a Band 4, we have the opportunity to send it back. We're not saying like other things here in this chamber if we don't vote on it, it automatically

becomes law.

I think sometimes folks look at this and they have a preconceived notion saying well, I don't support it. And I think now is the time to be open-minded about it. Take a look, give the Probate Court Assembly -- our current judges, the opportunity to draw those lines, because they will work together. They need to work together and they will send this plan to the Commission, and hopefully the Commission will send it to us in a timely manner.

And I ask the chamber's favorable report and thank you to Senator Doyle and all the members that worked on this through the committee. Thank you, Mr. President.

THE CHAIR:

Senator Daily.

SENATOR DAILY:

Thank you very much, Mr. President. You know, I think most first selectmen and mayors don't know very much about probate judges, probate work, or what they do. For the most part, they're in a nice corner in a town hall or some office off-campus and the clients come and go, and they don't have much interaction with the mayors or first selectmen. I was a first

selectman and in the mid-'80s when I served, I'd say that applied to me too. We had a very lovely probate judge, very kind man, and I didn't know much of his comings and goings or his clients until he disappeared.

When he disappeared we had no probate judge. And the poor people who were coming into us at town hall to try to have their business taken care of couldn't be helped. And it's not very far to go to Essex, it's not very far to go to Saybrook, not very far to go to Clinton -- but they were so distressed at not being able to have the work done in their own town hall.

The administrator couldn't do anything to help us because the probate judge hadn't resigned, hadn't taken a leave of absence, that probate judge was elected for a time certain. We went along like that for a while with people going to other courts until very late one night, you might call it in the middle of the night, we had an emergency guardianship issue. And I called a judge in a neighboring town, she came right down to our town hall, I opened up, she resolved the issue. And from that day on, I was keenly aware of how important our probate judges are to our towns, to our residents, and especially to our senior --

citizens.

I want to thank Senator Doyle for all the work he has done, we know Senator Doyle's integrity and how earnest he is. But I have to share with you that the first selectmen in my area, they're all very angry that they were never at the table, no municipal official was at the table through all of this. And municipalities have a role in the probate courts, they pay money towards the probate courts. That's one of the worries that my first selectmen have, that the budgets that they now have for their courts will now escalate and it will be out of their control.

In small towns the local judges are very eager to please their constituents, to work well with their first selectmen. In my town the court has lovely office space in our town hall and a budget of $3,000 a year. That $3,000 a year has been the same amount for 15 years. Don't you think our first selectman is worried about it just going up out of his control? And it's not that he had automatic control, it's the good relationship with the probate judge.

Having said that about the underlying bill, I would like the Clerk, if he would be kind enough, to call LCO Number 8255.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 8255, which will be designated Senate Amendment Schedule A, it is offered Senator Daily of the 33rd District, et al.

THE CHAIR:

The motion is on the floor for summarization.

Seeing no objection, you may proceed, ma'am.

SENATOR DAILY:

Thank you very much, Mr. President. I move the amendment and I seek leave to summarize.

THE CHAIR:

Please proceed.

SENATOR DAILY:

This is a very small amendment and very basic. What it would do is guarantee the municipalities that they would never have to contribute more to the probate system than what they contribute today. I urge your support for this amendment, I urge you to try to help all of our large cities and small towns in the state. I would ask that this be done by roll call, Mr. President.

THE CHAIR:

A roll call will ordered, ma'am.

Will you remark? Will you remark further on Senate A?

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. Mr. President, I rise in support of this amendment. In fact, one of the amendments that I have drafted is very, very similar, if not identical to the amendment by Senator Daily.

You know, when we start to merge these probate courts, there's going to be ancillary costs. I know that, for instance, my probate courts in North Haven and East Haven are probably vulnerable to this bill if it becomes law. If they get merged with, say, Wallingford -- which is housed inside the Town Hall of Wallingford -- if that's where they were to be merged, with the staff that's going to be required there may be a separate building that may be required. And perhaps the town would have (inaudible) to Wallingford, would have to pay for those expenditures. Rightly so as a host town, they may look to the town of North Haven or East Haven to help contribute for these off-site expenses.

Mr. President, if we as a state are going to

decide that we as a policy in this state should consolidate the probate courts, I recognize we have that authority to go ahead and do that. But if we're going to hide some of the costs by virtue of municipalities kicking in certain expenditures, which are not contemplated in the bill here today or not contemplated when the details get worked out, this amendment will protect all of us from our municipalities coming back and saying, hey, why did you put a municipal mandate on? I understand the consolidation, but did you know that we have to help pay for electricity, gas, rent, what have you, clerk, whatever the issue may be.

So Mr. President, I think that's important for us to have this in the bill, because this is a complicated issue. And if you look at this bill, there is no method for our legislature to -- when we get it, to amend it. We have a right to vote it up or vote it down, but we don't have a right within the bill to amend it once it comes in front of us. So Mr. President, we may not have this opportunity again, and we may be forced at that point and time, absent this amendment, to approve the consolidation and overlook the issue of cost to the municipalities,

because we're going to stand here and say that the imperfect should not stand in the way of the -- the imperfect should not stand in the way of the good.

So Mr. President, I would urge us to adopt this amendment to ensure that municipalities don't end up with a bill that they don't anticipate. And this certainly will go a long way to doing that. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Senator Doyle.

SENATOR DOYLE:

Thank you, Mr. President. I rise to object to this amendment. And first I would like to say, current law -- there is no such protection. And I do give credit to Senator Daily's court that actually kept costs down for 15 years, that's an admirable trait. I'm not sure it's achieved statewide, but that is quite an accomplishment.

But that being said, the new system and the new courts arranged is still going to be a local-control situation. So the same leaders in Senator Daily's town will still have control over expenses and the like for each court. So if they were so successful

and I give them absolute credit for 15 years, maintaining the costs down -- they will be able to continue to do that, albeit with other communities together.

But if her neighbor -- her neighboring towns are fiscally prudent, this amendment is unnecessary, because they will continue to have full control over the system to keep costs down. You know, other districts may not be as fiscally prudent as Senator Daily's and as general -- and we never really have achieved here, there are inflation costs each year. So other courts, and I submit my court, you know, it does have inflationary increases, but I think this is unnecessary and really unworkable.

But I would submit to you that Senator Daily's towns can continue to achieve that goal, because they still will have local control for their court districts. Through you, Mr. President.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Mr. President, I'd like to suggest that I'm in favor of this amendment and I thank Senator Daily for bringing it forward -- it goes right to the point of

my concern about local costs. And through you, Mr. President, I have some questions for the proponent of the underlying bill which will address this amendment.

THE CHAIR:

I'm sorry, Senator McLachlan, you have a question to the proponent on the amendment?

SENATOR MCLACHLAN:

No, I have a question to the proponent of the bill that will address issues of this amendment.

THE CHAIR:

Senator Doyle.

SENATOR MCLACHLAN:

Thank you, Mr. President. Through you, Mr. President, Senator, thank you for all your hard work on this bill; I am very aware of many people that have worked hard on this. But Senator Daily's amendment does address concern, and I'll give you a scenario in which I think is a potential problem.

I don't see anywhere in this fiscal analysis capital costs for new office space or expanded office space that come to play in the creation of new courts or the mergers of courts, and I'll use Danbury as an example. Danbury's probate court has a significant amount of office space in city hall, and there is not

the ability to expand in that particular location to make more space available to the probate court operation. What would happen if this new plan called on the City of Danbury -- and I only use that as an example -- to be a new merged court that requires new space? Through you, Mr. President, who pays for the cost for office space and the moving costs to move the existing probate court out of city hall into a new location? Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Mr. President, I just first want to be clear, I don't support the amendment, and then I will continue to answer the question.

First of all, the underlying assumption to Senator McLachlan's question is that the Danbury Probate Court would have to move. That's one of the larger courts, and granted I cannot predict what the ultimate Probate Court Assembly approves or the legislature approves, the larger courts probably would stay intact.

But that being said, I still understand the premise of the question if we look beyond Danbury, but

any costs associated with moving will be the responsibility of the newly configured district. That being said, you would get consolidation of services. Now in the hypothetical, if Danbury were to have to move, there are more towns involved with the consolidation, so it would be spread out. Through you, Mr. President.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. And through you, Mr. President, so even though the fiscal analysis does specifically state that, you're saying that the revenues that will be created from the courts themselves will assume all the costs of any moving of office facilities or the increased cost of office facilities, should those occur? Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Mr. President, I'll just -- I'll be honest, I think the hypothetical of Danbury is really not appropriate, because it's an existing large court.

The true hypothetical is the consolidation of several communities that have separate towns; when they consolidate they have current budgets for each town. They would be consolidated to one, then you would have economies of scale and you could even have lesser costs, but they would incorporate all of it. But I don't anticipate large courts like Danbury or Hartford or Bridgeport moving, they have existing facilities that are very active, that have well over the suggested criteria.

So in the real example of a consolidation of several towns, you would look at it, they would consolidate -- I would not suggest that a new court expend capital funds to create a court where they could just rent space. And I'll use a direct example, the court in my district rents space. To me, there's plenty of office space around, I would not support the construction -- capital costs are thrown about, it just doesn't seem to make sense when we have plenty of rental space. Through you, Mr. President.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. And through you,

Senator Doyle, I agree with you. I don't think that it would make sense to have big capital expenditures for this purpose, it sort of defeats the purpose of what we're trying to accomplish here with this aggressive merger proposal. But the absence of that being discussed in the fiscal analysis is my concern.

And so therefore I use Danbury as an example, because the probate court was a neighbor to my office and so I'm very familiar with their operations and the employees that work there. And I just know in that particular example there is no space to expand, and I suspect that if you're going to merge smaller community probate courts, they reside in a much smaller town hall office space, perhaps similar to that of Senator Daily's hometown.

And so just assume that that's going to happen elsewhere, how do you squeeze four or five or six probate courts and their business into an existing small facility? That's my concern, how -- has this really been flushed out and will there, in fact, be true savings? Has that been discussed in this tentative idea of 50 courts? Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Mr. President, yes, and I really think why it's addressed by the legislation is we have criteria that has exceptions. There's a specific goal for a number of courts, but there are no certain, absolute requirements for the form of the courts. We're going to rely on Probate Court Assembly, which is our existing probate judges, to come together and try to work out these problems that you recommend.

I'm not saying it's going to be easy, but in circumstances one of the issues is space. And if the Danbury court is an active, high-volume court, it has no more space, that may not be an option for your neighboring towns to merge. However, several suburban districts around Danbury may merge, utilizing their existing funds to rent a space to have a multi-town facility. Not a new facility, a rental facility which my court has, which can ultimately break even or even same money because of economies of scale, through you, Mr. President.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. Thank you, Senator Doyle, you have answered my questions. I just wanted to flush out that that has been considered during this planning process and that it will continue to be considered, so we don't defeat the purpose of what the underlying bill is trying to attempt. But I do stand in support of Senator Daily's amendment and give peace of mind to our chief elected officials that there will, in fact, be no additional cost to them. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark?

SENATOR FRANTZ:

Thank you, Mr. President. I stand, briefly, in support of this amendment here, I think it makes good sense. We're asking Connecticut to potentially change a system, as Senator Kissel pointed out earlier, has been around for hundreds of years and has become a very important court for the people of Connecticut, especially in very difficult times.

Probate judges have done an outstanding job throughout this state I think, and some of the reasons why they have been able to do a good job is because

based on what town they're in and what the community is like, what the atmosphere is like, they have been able to set up a shop that is appropriate for the functions that a probate court and a probate judge is responsible for.

So we're potentially asking Connecticut to look at a paradigm change here and it's all in the interest of saving costs, which we're all very much in favor of during these very difficult times. However, when we're looking at changing something so dramatically, I think it's very important that we are very crystal clear that this does not cost the municipalities any more money, today, tomorrow, or five or ten years down the road. And if you use a little bit of projecting skills, you can see a couple of different scenarios that could cost certain towns some additional money that was unforeseen in the generation of this plan that we'll be voting on later today.

And so I stand very much in favor of this amendment and urge everybody to consider this very seriously, especially for the smaller towns. Many of whom, each and every one of us or close to each and every one of us do represent. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark?

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President. I rise to ask a few questions to the proponent of the amendment. And also to give her my gratitude for raising the issue of cost, as I have a seven-town district and every single town in my district will be affected by this particular legislation. In fact, I've been told it is the one district that is probably affected the most, because there isn't one town that is exempt from the ultimate outcome from this particular legislation.

And cost has been one of the issues that surround this, in that proposing this there was the hopeful objective of saving a great deal of cost. Although others have maintained that it's possible, that it really is to help fund underperforming or those larger districts that have large caseloads that don't provide the kind of fees that they need to really support it going forward and that they need more financial support by those communities that are basically in operation and receive fees for financial transactions

versus other types of transactions.

So you know, the question is, what is really the underlying need and cause for this? That might also be very valid. But through you, Mr. President, may I please ask the proponent about those costs outside of facilities if they considered that as something that might drive up costs. Are there other areas of concern such as operational costs or staffing costs and so forth, that led to the proposal of this particular amendment? Through you, Mr. President.

THE CHAIR:

Senator Daily.

SENATOR DAILY:

Thank you very much, Mr. President. And through you, Mr. President, to Senator Boucher, the cost of the office space is just covered by town hall in our case. Then there's the $3,000 stipend, and from that the court pays copying costs, telephone costs, things of that nature, things that are considered probably mostly clerical.

SENATOR BOUCHER:

And through you, Mr. President --

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

-- thank you very much for the answer. If this plan were to pass and the courts would be consolidated, what was the fear on the part of the municipalities that the good Senator represents with regards to the direction of those costs to the municipality? Through you, Mr. President.

THE CHAIR:

Senator Daily.

SENATOR DAILY:

Thank you very much, Mr. President. That there wouldn't be the good type of close-knit relationship that exists between the first selectmen and the judge of probate. And that they would work in concert to keep costs down for their residents, because that new judge might be the best judge in the state, but it wouldn't belong to that town -- it wouldn't necessarily belong to that town.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President. And I thank the proponent for those answers, I truly do appreciate it. The whole issue does raise a lot of questions, some

even fear that the bill as it's being proposed might actually lead to the ultimate elimination of the probate court system in our state and possible overall cost would be in question. So for that, I thank the good Senator for her answers and hope to listen to more of the debate as it progresses this evening. Thank you.

THE CHAIR:

Thank you, ma'am.

Will you remark further on Senate A?

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. Mr. President, I rise in opposition to the amendment. And I just wanted to let the members of the circle know that one of the criteria for the Probate Court Redistricting Commission is to take into consideration many of the issues that have been talked about here, today. It's a nonexclusive list, but at least, in my opinion, the Redistricting Commission would have the ability to weigh all the issues that have been raised by Senator Daily and others regarding the involvement and availability of municipal resources to the probate courts. And that is clearly an issue that has been on

the forefront of many people's minds, and I'm certain that the Commission would take that into consideration.

I would certainly not want to jeopardize this legislation with any amendments here because of the ever-crowded schedule down in the House. So I would respectfully oppose the amendment.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate A?

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President. I am a little nervous about sharing a microphone, I hope my friend Senator McDonald recovers soon, maybe June 4th would be a good time for him to recover from his cold.

Mr. President, I rise in support of this amendment. And let me first address Senator McDonald's last concern. We are a week left in our legislative session, and obviously, now is the time when people will make the argument that amendments will kill bills. This is a bill that was supported by a large majority down in the House of Representatives, this amendment will not change that vote. Indeed, I

would argue this amendment will only increase the support for this bill down in the House of Representatives.

And let me tell you why I think this is an appropriate amendment and an important amendment. First, here's why it's appropriate; many of us in this circle, even many supporting this bill and those of us who are opposed, have expressed some of the same concerns about the number of courts that would be created, the consolidations, how they would happen. This amendment does not in any way disturb that process, therefore the fundamental principles of the underlying bill remain intact. What this amendment simply does is say that if we are to rescue the probate court system out of the financial morass that it is in, we will not do so on the backs of local property taxpayers.

Senator McDonald quoted, and I believe, that the Commission will look at this issue. But it is not the Commission's responsibility to protect local property taxpayers from municipal mandates, ultimately that's our responsibility. And as I understand the legislation before us, we do not have an opportunity at a future time to offer amendments, we have the

opportunity to accept or reject the Commission's findings. So we would in effect be giving solely to this Commission, and not to this legislature, the power to protect our towns and cities from unfunded mandates.

As I understand the financial difficulties of the probate courts, it's clear that the savings in this bill are largely built upon having a lot fewer judges and having to pay for less health care for fewer employees in the system. That is the bulk of the savings -- that has been in large part, a lot of the problems that have been created with the escalating, skyrocketing of health care.

But if we are going to say that probate court districts should be consolidated, why should we be asking our communities to pick up the burden of that? Senator Doyle mentioned that under current law, our towns and cities don't have this protection -- I believe he said that, and I believe he's right. But under current law, our towns and cities get to have their probate courts. So it's okay not to protect them from, perhaps the cost of housing a probate court, because they get to have it and it is their choice.

We are taking that choice away from them; we are saying to many of our towns and cities, you can't have a probate court, we're taking it away from you. We will force consolidation amongst towns, and by the way, it's going to cost you more money. That doesn't make any sense. There was a report done -- the Stokes report, I believe it's called -- in 1990, which looked at the cost of consolidating probate courts from what was then either -- 132 probates to 50, essentially what we're talking about today. And that report talks about extraordinary costs of the consolidation.

When I think about my own district that I represent, clearly the Fairfield Probate District with a town of 60,000 won't be consolidated, but the Weston-Westport Probate Court District isn't big enough, the Newtown Probate Court isn't big enough. But if you look at potential partners in consolidations for those towns, and you know where those town probate courts are located, in town halls, in small office space, it's easy to imagine that with extra workload, with the workload of two or three towns and not one, with the workload of perhaps twice the size of the population, they will not be able to continue to function in their current space. So where

are they going to go and who's going to pay for it? I guess our towns are going to have to pay for that and that just doesn't seem right.

One of the things that this underlying bill does in correcting the financial problems of the probate court, is essentially to shift them to the General Fund. Another thing it does is to potentially shift it to our towns and cities. This amendment simply says, don't shift it to our towns and cities. It does not interfere with the underlying bill and the principles and the consolidations that clearly a majority think are necessary for this system.

And it will not, it will not hurt the bill from passage in the House. Quite frankly, it will get more votes for passage in the House of Representatives, and I would urge adoption. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate A? Will you remark further?

If not, Mr. Clerk, please call for a roll call vote, the machine will be open.

THE CLERK:

An immediate roll call vote has been ordered in

the Senate, will all Senators please return to the chamber. An immediate roll call vote has been ordered in the Senate, will all Senators please return to the chamber.

THE CHAIR:

Have all Senators voted? Have all Senators voted?

If all Senators have voted, the machine will be locked, the Clerk will call the tally.

THE CLERK:

Motion is on adoption of Senate Amendment Schedule A.

Total Number Voting	35
Those Voting Yea	12
Those Voting Nay	23
Those Absent/Not Voting	1

THE CHAIR:

The amendment fails.

Will you remark further on House Bill 6385 in concurrence with House A and B?

If not, Mr. Clerk, please call for a roll call vote.

I'm sorry, Senator Fasano, would you like to speak?

SENATOR FASANO:

Yes, Mr. President, I would.

THE CHAIR:

Please proceed.

SENATOR FASANO:

Mr. President, with respect to the underlying bill with the -- as is, Mr. President, I would ask the Clerk to call LCO 8448, please.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 8448, which will be designated Senate Amendment Schedule B, is offered by Senator Fasano of the 34th District.

THE CHAIR:

There's a motion of the floor for summarization.

Seeing no objection, please proceed, sir.

SENATOR FASANO:

Mr. President, I'd like to move the amendment.

THE CHAIR:

Without objection, please proceed.

SENATOR FASANO:

Thank you, Mr. President. Mr. President, what this amendment does is it allows those courts that are

having difficulty meeting their expenditures to apply to the Court Administrator and seek relief, Mr. President.

Essentially what it says is that if you have a court that -- it's expenditures exceed the income, you can make an application to the Court Administrator for relief. And if after review, the Court Administrator agrees that your expenditures are exceeding your income, then it comes back to our chamber for us to determine if the state should, quote/unquote, take over that probate court.

What that really means is work with the probate court, leave it where it is, oversee it, help it trim its expenditures, help it get back into a positive, Mr. President. After two years, should that probate court reach a positive situation, then the Court Administrator would agree to, if you would, not oversee it and turn all the control back over to the original probate court. So what does this amendment effectively do -- that's the mechanics.

We do not have to disrupt every single probate court in the state of Connecticut because of this deficit. If you look at the OFA note, it says that this amendment would only cost the state 200 to

300,000 dollars per year -- 200 to 300,000 dollars per year, for all the courts. Not the $4 million, not the $8 million, 200 to 300,000, because you're dealing just with the family courts. And when we talked to OFA to ensure that's what it meant, it indicated to us that there's seven or eight courts that would be deemed as not having enough income to support their expenditures.

So Mr. President, what we're doing is we're not taking over every court, those that are having the difficulty, those are the ones that we're going to help out, those are the ones that the state is going to go into their pocket to keep them going. We don't have to disrupt the entire system, we don't have to take into account all the different probates and do something which, I think this chamber recognizes is a little bit uncomfortable, a little unnatural, not what we're accustomed to.

Mr. President, we all have our probate courts in our jurisdictions and we all recognize the importance that the probate court plays. Especially at a time when emotions run high, you like to know who your probate judge is, you like to sit down with your probate judge and talk about the difficult issues,

whether it's conservatorship, guardianship issues, issues dealing with wills. Those are the issues that are very emotionally charged and that's why we feel comfortable, as Senator Daily said, with these local probate courts. This does nothing to upset the apple cart, those probate courts in those cities or towns that are having financial difficulty would still run the way they run today, except the Court Administrator would just review what they did. And after -- upon that review, if there's a deficit, state will kick in. So everything remains intact and it costs less than what the underlying bill suggests that it does.

So Mr. President, I look for support, this is the less intrusive way of solving a problem. It keeps what we have the way we have it, and costs the state less money. We got an $8.7 billion deficit, this bill has got a significant cost factor, at a time we don't have a budget, let alone saying this is going to be taking care of a budget, this is a 200 to 300,000 issue. Mr. President, I hope the circle looks at this for the intention it has put forth, and I hope the circle supports it. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate B?

Senator Doyle.

SENATOR DOYLE:

Thank you, Mr. President. First of all, I urge the -- I'd ask for a roll call vote on this amendment.

THE CHAIR:

A roll call will be ordered, sir.

SENATOR DOYLE:

Thank you, Mr. President. With all due respect to the proponent of the amendment, I believe this amendment is simply another mandate to the current major hemorrhage we have with the probate court system. And the fiscal note on the underlying bill has much larger figures in terms of the Probate Court Administration Fund -- $12.6 million in fiscal year '11, $23.2 million in fiscal year '12.

So this, while I'm sure it's all well intended, it does not address the real current situation and it's -- we're in a grave situation with the current probate system. And I think this simply passes the responsibility onto the Judicial Branch; and I haven't heard from them, but I probably think they don't want to deal with this.

I think it's more appropriate that we stand here

today, make the -- albeit it's a difficult decision, but make a decision to work forward -- to correct the system, rather than delay it and move on. We are in a difficult time, but today's the day to move forward as a result of the efforts of the bipartisan coalition, to correct a system, we hope, for many years to come rather than just temporarily (inaudible) before us. And I urge the chamber to oppose Senate B. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. Mr. President, I rise to ask a question of the proponent of the amendment. Through you, Mr. President, Senator Fasano, this is a strike-all amendment, is that correct? It would cut the underlying bill?

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Yes, it is. Thank you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

And through you, Mr. President, Senator Fasano, this would remove all administrative authority with respect to such funds from the Probate Court Administrator to the Chief Court Administrator, is that correct?

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. With respect to those courts that are failing, through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you. And just through you, Mr. President, what is the underlying rationale for excluding the designee of the Chief Justice, who is the Probate Court Administrator from the administration of the Probate Fund? Through you, Mr. President.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Through you, Mr. President, if Senator McDonald could point to the specific line just so --

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. Through you, to Senator Fasano, the authority to appoint the Probate Court Administrator is the exclusive authority of the Chief Justice. She has vested her trust and confidence in a new Probate Court Administrator and under this amendment that Probate Court Administrator would be stripped of his authority in lieu of transferring that authority to the Chief Court Administrator, who is admittedly, also a designee of the Chief Justice.

But my question, through you, Mr. President, is why is it preferable to have the Chief Court Administrator oversee this responsibility when she has no familiarity with the day-to-day operations of the probate court system and the Probate Court Administrator does? Through you, Mr. President.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Mr. President, certainly it could be drafted in another way. And if Senator McDonald would support

the amendment -- perhaps we can then do another amendment to correct, if he feels uncomfortable with the Chief Court Administrator. And I would recognize if he felt that was a better amendment, I certainly would redraft it.

But the Chief Court Administrator is just someone that we felt would probably have the time to review the necessary documentation, the financial figures -- it's not an issue of knowing the law, as much as it is to understand budgets and understand the oversight component. And it would be my belief that that probably would be the best administration, by someone who is termed "an administrator." Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. And through you, Mr. President, has Senator Fasano inquired of the Chief Court Administrator whether she would like to take on these added responsibilities, in lieu of the Probate Court Administrator doing them currently? Through you, Mr. President.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

No, I have not, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. Mr. President, I oppose the amendment not only because it would gut the underlying bill, but because it would act as unprecedented redistribution of authority from the Probate Court Administrator, who has particular expertise in the administration of the probate court system. And I can faithfully represent to the circle that the Chief Court Administrator has not been asking for additional responsibility, she seems to have a very full plate already. So I oppose the amendment. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate B? Will you remark further?

If not, Mr. Clerk, please call for a roll call vote. The machine will be open.

THE CLERK:

A roll call has been ordered in the Senate, will all Senators please return to the chamber. An immediate roll call has been ordered in the Senate, will all Senators please return to the chamber.

THE CHAIR:

Have all Senators voted?

If all Senators have voted, please check your vote. The machine will be locked, the Clerk will call the tally.

THE CLERK:

Motion is on adoption of Senate Amendment Schedule B.

Total Number Voting	36
Those Voting Yea	10
Those Voting Nay	26
Those Absent/Not Voting	0

THE CHAIR:

Amendment B fails.

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President. Mr. President, I believe the Clerk is in possession of an amendment with my name, LCO Number 8252. I ask that he call the amendment and seek leave to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 8252, which will designated Senate Amendment, Schedule C, it is offered by Senator McKinney of the 28th District.

THE CHAIR:

The Senator has asked for summarization.

Seeing no objection, sir, please proceed.

SENATOR MCKINNEY:

Thank you, Mr. President. Mr. President, I move adoption of the amendment.

THE CHAIR:

Motion is on adoption.

Seeing no objection, please proceed.

SENATOR MCKINNEY:

Thank you, Mr. President. Ladies and gentlemen of the circle, earlier on an amendment I had made mention that the underlying bill only allowed this Legislature to accept or reject the proposal from the Commission. That was clearly language in an earlier draft, it is not in this final draft. Indeed, the final draft is silent as to what we may or may not do when the proposal comes back to us from the

commission.

What this amendment simply does is say that when the redistricting plan is filed with the clerks -- and that the General Assembly shall convene to consider the probate redistricting plan and consider legislation to redistrict the probate courts, the legislation -- we may implement the legislation or vary from the probate redistricting plan. This gives us the option to accept, reject, or vary the plan; in other words, amend the plan.

Imagine, Mr. President, if you will, that the probate commission comes back with a plan which works for most everybody, but maybe not one or two towns. Maybe there are one or two towns which really are forced into consolidations that they do not want. I had a discussion earlier this year with Judge Knierim -- and in my final remarks on the bill I will thank him for all his work. It was a very good discussion in the town of Newtown about the troubles of the probate court system, the hopes of consolidation, and part of the discussion was understanding and hoping that towns would take control of their own destiny, work with natural partners, and consolidate in that way.

Now clearly, we've been hoping for that for years and there has not been a lot of consolidation. There's been some in the northwest corner and other parts of the state, but not as much as people were hoping for. But if you look at the underlying plan, if you consider 40 or so probate court districts, if you look at the different districts in the state, I can see a situation, especially in the southwestern part of the state -- which I'm more familiar with because I live there -- where there may be some consolidations or certain districts that exist now that are split up to create other consolidations, where towns don't get natural partners, where towns are forced to consolidate in a manner that does not work for the people of either town or of the multiple towns.

And imagine if that plan only affected one or two towns. We should reserve the right to amend the bill to fix that situation. It's a hypothetical, it may happen -- but imagine if the balance of the success of this plan were just on, maybe, a handful of towns not being happy a handful of towns not being treated as fairly in -- through a consolidation plan as we would all like.

How would you feel if you were the senator, if you were one of several senators in this circle whose towns were the few forced to consolidate in a manner not as part of charting their own destiny? I think none of us would want to be in that situation. And think all of us would want the opportunity to at least offer an amendment and work with our colleagues to maybe make the plan a little bit better.

The silence in the underlying bill on that does not necessarily mean that we, as a body, will have the chance to come back and vary the plan. And again, let me first thank Judge Knierim for his openness and honesty, which is that it is the hope that when the rules are established for special sessions to debate the acceptance or rejection of this plan, that rules would be drafted to prohibit amendments to the plan.

So although the bill no longer limits us to accepting or rejecting, it also does not guarantee us the right to vary the plan, because the rules could prohibit it. If we pass this amendment, we don't impact the underlying bill before us, we reserve the right as a legislature not just to accept or reject the plan, but to offer amendments. We don't even have the right -- imagine -- just, I'm asking you to

imagine that it's your district, it's your towns that say, you know what, the plan came back and everybody's happy except for us. Wouldn't you want the right to at least be able to stand up and offer an amendment to the plan to fight for the people of your district?

This amendment would guarantee that by allowing us to vary it, it would protect us from a rule prohibiting amendments, again, it doesn't vary the underlying bill, it will not jeopardize it in the House. Mr. President, I think this is a very modest amendment and I would urge my colleagues to accept it. And I ask that when we vote on the amendment, we take the vote by roll call. Thank you.

THE CHAIR:

A roll call will be ordered, sir.

Senator Doyle.

SENATOR DOYLE:

Thank you, Mr. President. I would like to urge my colleagues to vote no on this amendment. And the good Senator -- proponent, Senator McKinney, is correct. In earlier versions of this legislation, there was language to have an up or down vote -- but I'll honest, I don't remember who, but at some point it was removed from the language and it's not in the

bill there, today. And that was a concession by -- I'm not sure who -- but today it's taken out of.

And I think we have to take a leap of faith with our Probate Court Assembly, who are probate judges, to make these decisions. And also the Probate Court Commission, and I would also appoint -- unlike me, Senator McKinney does have two appointments to that Commission, so I think he will have direct input into the final composition, which is a privilege of being a leader that Senator McKinney has.

But I think this amendment at this point is premature, because we are talking about alleged components to the rules. And nothing is in writing with the rules right now, the rules are not set in stone, really this is discussion for another day. At some point if leadership, which Senator McKinney would be part of the discussions on the rules, unlike myself, but at that point -- we could have the discussion at that point. At this point I would urge the circle to reject this amendment, keep this legislation on track, and try to get it to the Governor as soon as possible.

But again, this question has not been settled, it will be settled another day. And I'm hopeful at that

point, sometime in October, trusting the work of our Probate Court Assembly with our judges and our ultimate, the Commission, they will do a fine job and I look forward to supporting it. But I would urge my colleagues to oppose it, because we don't need to act on this today. Through you, Mr. President.

THE CHAIR:

Thank you, sir.

Senator McKinney, for the second time.

SENATOR MCKINNEY:

Thank you, Mr. President. And I respect Senator Doyle and I appreciate the position he's in. And if I could, Mr. President, through you, a question to Senator Doyle. I certainly would be willing to withdraw the amendment if I can at least ask Senator Doyle if he'd be willing to, you know, agree to work with us. So that when the rules are created to finally accept or reject the plan before us, that those rules would not prohibit members from offering amendments to the plan if they wanted to.

I'm not aware, in my 10-plus years in the state Senate, that we have ever had a rule before us that prohibited members from offering amendments. Clerk -- certainly we have rules regarding germaneness and the

like, but I'm not aware that we've ever had a bill that has prohibited by rule us from offering an amendment. So I think that's a basic right that we should have as elected representatives.

So I don't want to put him on the spot, I'd like to ask everybody in the Majority if they'd agree with that. But since Senator Doyle did bring out the bill, I'm just wondering if he'd be willing to agree to work with us on that issue? Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Mr. President, I would be willing to discuss it with you, but I'll be in all candor, I really rarely have much input in rules, that's more of a leadership role with our Majority Leader and our President Pro Tempore and yourself. So I'd be willing to speak with you about it, but I'll be all in candor, I don't necessarily as a rank and file member have much role in crafting the rules. So through you, Mr. President, I'm willing to, but I'm not sure what my direct impact would have. Through you, Mr. President.

THE CHAIR:

I thought Senator McKinney gave you a promotion

or something.

Senator McKinney.

SENATOR MCKINNEY:

Mr. President, I was going to ask if I could deputize him to take over a leadership role on the rules of this bill.

But I appreciate the Senator's answer, again, Mr. President, I understand and I think he would be willing to talk to us about that issue. And I trust him greatly -- but I am concerned that -- the plan that comes from the Probate Assembly and the Commission is going to have a recommendation that the Legislature not be allowed to offer amendments to that plan, that's what troubles me. And that's why I'd ask people to accept this amendment.

THE CHAIR:

Thank you, sir.

I'd like to remind everyone, again, that the use of cell phones in the chamber is not acceptable.

Senator Meyer -- thank you.

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. Mr. President, I rise in support of Senator McKinney's comments and his

amendment and urge this circle to adopt it. Once again, Mr. President, this speaks to the fact that we don't know what's going to come out of this committee, we don't know what plan we're going to get, we don't know what tweaks are going to be required. And we're going to be kind of hamstrung in terms of what we're going to be able to do to take something that could very well be a very, very strong and very, very good document, but may need some tweaking for whatever reason.

I mean, look at today, look around, how many amendments do we file in one day, how many amendments do we file on bills that leave committees and we think, gee, these bills are great. Then they hit the floor and we say, you know what, minor mistake, we didn't think of this or we didn't do that -- that could happen. To say to start the whole process over again, just doesn't make sense to me. Doesn't make sense that we get all the way to the threshold -- we turn it away, because we don't give ourselves the small flexibility of making amendments which may very well be bipartisan and 100 percent supported.

So Mr. President, it just doesn't seem to make some logical sense that we would restrict ourselves to

a yes/no, allow the process to get this far, allow all the folks to do the hard work, who are looking at the big picture, the medium picture, small picture, but just missed one point or one issue, and we've got to start all over again.

Mr. President, there's many bills that pass through six or seven committees and get here and we agree to certain amendments. This would be a setback in what could be a positive step for those who are in favor of the consolidation, and could delay what everyone is arguing is a required step, a necessary step, an immediate step; and at the end of the day, we could be causing a significant delay in getting it approved as a result of an oversight. So Mr. President, I urge the adoption of the amendment. Thank you.

THE CHAIR:

Thank you, Senator Fasano.

Will you remark further on Senate C? Will you remark further on Senate C?

If not, Mr. Clerk, please call for a roll call vote. The machine will be open.

THE CLERK:

Immediate roll call has been ordered in the

Senate, will all Senators please return to the chamber. Immediate roll call has been ordered in the Senate, will all Senators please return to the chamber.

THE CHAIR:

Have all Senators voted? Have all Senators voted?

If all Senators have voted, please check the board. The machine will be locked, the Clerk will call the tally.

THE CLERK:

Motion is on adoption of Senate Amendment Schedule C.

Total Number Voting	34
Those Voting Yea	13
Those Voting Nay	21
Those Absent/Not Voting	2

THE CHAIR:

The amendment fails.

Will you remark further?

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. Mr. President, through you, to Senator Doyle, it's my understanding that if

this consolidation takes place, there may be some folks recurrently employees of various probate courts, staff or, in fact, even the probate judges. By virtue of this consolidation, there may be people without jobs at the end of this consolidation, is that correct? Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Mr. President, the answer is yes. There could be some staff and judges layed-off as a result of this consolidation.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. And Mr. President, through you, does Senator Doyle have any guess or guesstimate, I guess, on how many employees does this bill envision to be let go by virtue of its possible enactment? Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Mr. President, I don't have any

exact numbers, I'll just comment generally. First of all, in terms of the number of judges, it's anticipated that there will be some retirements and then there will be some with the consolidations there may actually be some elections -- but the exact number, I don't know.

In terms of staff, to be honest, I haven't seen a firm number, because there's a lot of intangibles. But in terms of the staff, a lot of the smaller courts have part-time staffs. Again, it's going to be up to the local control of each consolidated probate court system, but it could be a decision of the new court to hire all the temporary staff in the assorted towns and not have full-time staff. I mean, it's up to them -- if that were the case -- there might not be layoffs in those particular courts, but I can't give you an exact answer, through you, Mr. President.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. Mr. President, I would ask -- and I thank the good Senator for his answers, thank you, Senator Doyle. If I can ask the Clerk to call LCO 8485.

THE CHAIR:

Mr. Clerk.

SENATOR FASANO:

And I request permission summarize.

THE CLERK:

LCO 8485, which will be designated Senate Amendment Schedule D, is offered by Senator Fasano of the 34th District.

THE CHAIR:

There is a motion on the floor for summarization.

Seeing no objection --

SENATOR FASANO:

I would move the amendment. Thank you, Mr. President. Mr. President, what LCO 8485 does is it allows employees who may be leaving the probate court system as -- specifically as a result of this merger, who may find themselves in the midst of being hired either by the State of Connecticut under the state system or under employment with a municipality, Mr. President, what this bill provides -- it allows these folks, should they find a new job with the state or municipality, to buy into that retirement system up to four years. Mr. President, this helps these folks that we, as a Legislature, are now going to make

effectively unemployed at some point in time and consolidation will do it, that's the purpose of lowering the cost. And if these folks find themselves in a position to get state employment because the economy gets better and municipal, we would like to get them the ability to pay into the state system or the municipal retirement system.

Mr. President, this is something that we've done with military folks who have served, we've allowed them to buy into the retirement system. It's something that is recognized and if they get hired what we do, and Mr. President, this is something we should do for those folks that we're sort of going to cut loose as a result of what we've done, and I say, "what we've done," because a few things. One, is this Legislature wiped out 15 million plus out of the probate court system. When we were looking for money and the probate court system was doing all -- was doing well, we went in there and raided their funds. They were toeing the line, they were doing the right things, they were making the right decisions, and we certainly taught them a lesson, and we took their money. And then we turn to them and say, gee, how come you can't run your system?

You know, Mr. President, when we did that -- which I think was a bad thing -- but when we did that, we put this probate court a little bit behind the eight ball. So Mr. President, I think that at the very least we should allow these people that we are going to subject to unemployment to have the ability, if they're fortunate enough to get a state job, fortunate enough to get a municipal job, that they be allowed to buy in up to four years into the state or the municipal system. Mr. President, I urge adoption. Thank you.

THE CHAIR:

Thank you, sir.

Senator Doyle.

SENATOR DOYLE:

Thank you, Mr. President. First off, I would ask for a roll call vote on this amendment.

THE CHAIR:

A roll call vote will be ordered, sir.

SENATOR DOYLE:

Thank you, Mr. President. I'll admit the -- this amendment is attractive to me, however, I would urge our Chamber to reject it. And I'll say during our many discussions with the Governor's office and OPM,

we talked about giving some incentives to the staff. As you remember earlier the judges that are either retiring or lose the election will get a four-year credit, as is under current law, several of us advocated to try to give some retirement credits, the same, maybe four years or the like to the staff if any is consolidated.

Unfortunately, the Governor's office and OPM, because of fiscal constraints, would not agree to that and that was part of the negotiated discussion. So although I think this is an attractive amendment and I wish it could pass, because of the fiscal impact -- and the OFA says on there it's uncertain, but there certainly will be some fiscal impact -- I think we cannot -- I cannot approve this amendment. I would urge us to reject it, because we're in difficult times and this agreement is a negotiated agreement amongst the Governor's office and OPM and the Legislators. And I just think that the tight financial constraint amongst the compromised legislation prohibits us accepting this. So again, although attractive, I urge the Chamber to reject the amendment purely on the difficult fiscal costs. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate D? Will you remark further on Senate D?

Senator Fasano, for the second time.

SENATOR FASANO:

Thank you, Mr. President. For the second time, perhaps I can make it a little more attractive for Senator Doyle. Mr. President, basically the retirements, as I understood as the bill was progressing through different stages, wasn't a buy-in, and this would allow the employees to buy in. I believe it was, for lack of a better term, a gift to the employees that they automatically -- if they've got the state job or if they got the municipal job, they would get the four years. This is a buy-in which would reduce the burden a little bit to municipalities and the state, and certainly make it incumbent upon the employee to step up to the plate to say, hey, I'm buying in, I'm in this picture.

So I think it's a little bit different concept that was discussed during negotiations and therefore, Mr. President, perhaps -- I know the other amendments have not gone as well as I had hoped -- perhaps with this additional information I can attract Senator

Doyle a little bit more to this side of the table.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark? Will you remark further on Senate D? Will you remark further?

If not, Mr. Clerk, please call for a roll call vote. The machine will be opened.

THE CLERK:

Immediate roll call has been ordered in the Senate, will all Senators please return to the chamber. Immediate roll call has been ordered in the Senate, will all Senators please return to the chamber.

THE CHAIR:

Have all Senators voted?

If all Senators have voted, please check your vote. The machine will be locked and the Clerk will call the tally.

THE CLERK:

Motion is on adoption of Senate Amendment Schedule D.

Total Number Voting 36

Those Voting Yea 13

Those Voting Nay 23

Those Absent/Not Voting 0

THE CHAIR:

The amendment fails.

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President. Mr. President, I was just talking to Senator McDonald to find out if I had my sayings right, but I think someone once said, insanity is trying to do the same thing over and over and expecting a different result. So perhaps I'm going to test that tonight, but I believe the Clerk is in possession of an amendment, LCO 8253. I ask that he call the amendment, please.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 8253, which will be designated Senate, Amendment Schedule E, it is offered by Senator McKinney of the 28th District, et al.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President. Mr. President, I move

adoption of the amendment.

THE CHAIR:

Motion is on adoption.

Seeing no objections, please proceed, sir.

SENATOR MCKINNEY:

Thank you. Mr. President, this amendment would allow any town, if it so chose through actions of its legislative body, to opt out of the probate court plan and assume all of the costs of the probate court. We are here dealing with a probate court -- restructuring of our probate court system, which, as others have noted, has been with the State of Connecticut since the mid-17th century. And in my opinion, the plan for reducing probate court into the 40s is quite frankly, signaling the end of the probate court system as we have known it in the State of Connecticut for over 300 years.

We are doing so because the probate court system is in dire financial straits. We are doing so because we, as a Legislature, took millions and millions of dollars out of the Probate Court Administration Fund which have further helped speed up the fiscal crisis that they face. So if we're consolidating Probate Court Districts because of a financial condition,

because the Probate Court System cannot sustain itself financially because of increased costs of health care and the like, then why aren't we giving our towns and cities the option to keep their probate courts if they're willing to pay for all of it themselves? That's simply what this amendment does.

This amendment says, if you're a town that's too small, you don't have 40,000 people, you don't have the minimum work hours, but you want to have your own probate court, you want to pay for it, you can do so. I don't know how we can object to that type of amendment, Mr. President. It solves the financial situation, because the town says, don't worry about it, we'll take care of everything; there's no cost to the system, there's no cost to the state. It allows towns to make that decision. It's consistent with what proponents of the underlying bill, Senator Debicella and others talked about, keeping that local feel, keeping local option, allowing towns to have their own ability to do this.

So I think this is a commonsense amendment. Again, I've talked to a number of different small towns, a number of mayors and first selectmen who, even in the most difficult budget year perhaps they

have ever faced or hopefully will ever face, in years where our local towns have made decisions that they've never wanted to make with respect to their local budgets, even in these dire economic times, there are small towns across the state of Connecticut who have said their probate court is so important to their community that they would be willing to pay for it themselves. I think that's an incredibly powerful statement on behalf of this amendment, more powerful than any statement I could make.

I don't know that the underlying bill allows the Commission who's going to put forth this plan the opportunity to give towns and cities this option and therefore, Mr. President, I offer the amendment. I would urge my colleagues to accept the amendment and ask when the vote be taken, it be taken by roll call. Thank you.

THE CHAIR:

A roll call will be ordered, sir.

Senator Doyle.

SENATOR DOYLE:

Thank you, Mr. President. I would urge rejection of this amendment on two grounds. First of all, I believe continuity of the new Probate Court System, if

this Chamber approves it and the Governor signs it, is a good thing. And if this legislation is passed, we would -- we would have a new, professional Probate Court System in the sense that all courts would have 40 hours and our constituents will be able to go to courts at all times.

If this amendment were to pass and towns could opt out of this system, we would go back to the old ways where courts are there part-time and our constituents and other individuals that go to the courts have restricted times to go there. I think that would lead to difficulty for our constituents and an overall inconsistency in our Probate Court System that's not a good thing.

I also would point out -- I'm not sure this amendment is drafted succinctly enough, because there -- it's got some references to reimbursement of the probate court for premiums paid, which I assume that's health care costs, and then it mentions "retain proceeds and responsibility for the operation of the Probate Court System." But there are certain costs now that the Probate Court Administrator Office pays for that really are -- I don't think might be covered here. And one of the instances, now indigent costs

are paid for, and I'm not -- it's not clear to me that they would be covered under here. And also there's computer support provided by the Probate Court Administrator, there is also legal services provided by the Probate Court Administrator, so I'm not sure this amendment correctly achieves a full compensation that the towns would pay for their court. And I think it's improperly drafted and I would urge the Chamber to reject this amendment on those two grounds. Through you -- thank you, Mr. President.

THE CHAIR:

Will you remark further on Senate E?

Senator McKinney, for number two.

SENATOR MCKINNEY:

Thank you, Mr. President. Just briefly, I don't believe -- there were several amendments I offered regarding an opt-out requiring varying degrees of paying. One would have been just requiring the towns to pay for the health benefits of the judge and the employees. This one, I believe, would require the town to pay for all costs incurred by the town, so I guess, Senator Doyle, I will respectfully disagree on his interpretation of that.

But let me just address his first concern,

because it goes to the heart of what we're doing here. I completely agree and have said for years, although I have opposed massive consolidations of our probate courts, that we should absolutely have what people are calling, quote/unquote, professional courts. Courts that are open one day a week, courts that are only open a couple hours, are not doing our communities a service.

I've also agreed that, even though there are some extraordinary probate judges and public servants who are not lawyers, that given the complexity of some of the issues that people now deal with, that going forward, our probate court judges should be attorneys in the state of Connecticut. So I have no problem saying that and I think had we done that, had we required probate courts to meet these professional standards, we would have necessarily seen much more consolidation than we've done. So I don't know how that's an objection to this bill, because we absolutely can and should and should have years ago, required that level of full, complete, professional probate courts. And we would have seen more consolidations, we would not have the dire financial condition we now have; we would still have a bad one,

but it wouldn't be as bad, and we would not be dealing with this underlying bill.

So again, I just wanted to stand up because I don't think those are fair criticisms of this amendment. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate E?

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. Mr. President, I support the underlying amendment. Once again, it goes to the argument that, if a town wishes to retain the local court that it wants to and the people in the district are willing to support that court at whatever costs they decide to undertake, why are we being heavy-handed and saying, well, we know better than you. We're big brother, we're going to tell you that we're going to solve your problem, don't worry about it.

If a municipality says, listen, we're okay with having our court, we'll pick up the insurance. That's really all what it's costing us is the health insurance, we're okay with doing it, because we

believe it is important to us that that probate court remains, we believe it's important to our community that we have a local probate judge. Yeah, we have some say if we get consolidated with another town, but we certainly don't have as much say as we do with this town. We certainly can't do what Senator Daily said, feel comfortable calling up a probate judge and saying, can you get down here because I have an emergency and I need -- this constituent needs help; you'll lose that.

And for those of us who've been in front of probate courts practicing law, like I have, and for those of us who have been in front of probate courts with difficult situations dealing with conservatorship, voluntary and involuntary; or even as simple as getting passports, it certainly makes a big difference. You'd feel a lot more comfortable dealing with a guy that you know from that town, dealing with someone you see every day in the supermarkets, out on the green, mutual friends, to talk about very sensitive issues, you cannot overlook that; so we give the option. What is so wrong if a municipality says, I want out. What is so wrong about that? Why are we going to take that freedom away from that municipality

to say, I just don't want it. It's not good for our town.

But we, as big brother, sit up there and say, we know better. We took your $15 million, and let me tell you how much more we know better. I think we got to get back to basics. I think we got to get back to say, if a town wishes to do it, let them opt out. So I support the amendment. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate E? Will you remark further?

If not, Mr. Clerk, please call for a roll call vote. The machine will be opened.

THE CLERK:

Immediate roll call has been ordered in the Senate, will all Senators please return to the chamber. Immediate roll call has been ordered in the Senate, will all Senators please return to the chamber.

THE CHAIR:

If all Senators have voted, please check your vote. The machine will be locked. The Clerk will call the tally.

THE CLERK:

Motion is on adoption of Senate Amendment Schedule E.

Total Number Voting	36
Those Voting Yea	13
Those Voting Nay	23
Those Absent/Not Voting	0

THE CHAIR:

Senate Amendment E fails.

Will you remark on the bill H.B. 6385 in concurrence with House A and B?

If not, Mr. Clerk, please call for a roll call vote. The machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate, will all Senators please return to the chamber. Immediate roll call has been ordered in the Senate, will all Senators please return to the Chamber.

THE CHAIR:

Have all Senators voted?

If all senators have voted, please check your vote. The machine will be locked. The Clerk will call the tally.

THE CLERK:

Motion is on passage of House Bill 6385 in concurrence with the House.

Total Number Voting 36

Those Voting Yea 29

Those Voting Nay 7

Those Absent/Not Voting 0

THE CHAIR:

The bill in concurrence with the House passes.

Senator Guglielmo. Senator Guglielmo, please.

SENATOR GUGLIELMO:

Thank you, Mr. President. Just for -- I rise for a point of personal privilege.

THE CHAIR:

Please proceed, sir.

SENATOR GUGLIELMO:

Thank you, Mr. President. I'd like to introduce some guests to the Chamber. I have with me my youngest daughter, Kristin, who's running our family business. And we have some visitors to the Capitol and to the state of Connecticut, and actually to the United States. These are friends of my daughter's who are on a work/study program here in the United States. They're here to improve their English, I don't know if

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SPEAKER DONOVAN:

House will come back, please come back to order.

Good evening -- good evening everyone. Nice to see you.

And will the Clerk please call Calendar 474.

THE CLERK:

On page 43, Calendar 474, Substitute for House Bill Number 6385, AN ACT CONCERNING REFORM OF THE PROBATE COURT SYSTEM, favorable report of the Committee on Appropriations.

SPEAKER DONOVAN:

Representative Susan Johnson, for what reason do you stand?

REP. JOHNSON (49th):

I'd like to recuse myself, Mr. Speaker, for the appearance of a conflict of interest.

SPEAKER DONOVAN:

Chamber will stand at ease.

(Chamber at ease.)

SPEAKER DONOVAN:

House will come back to order.

Deputy Speaker Robert Godfrey, you have the

floor, sir.

REP. GODFREY (110th):

Thank you, Mr. Speaker.

Mr. Speaker, I move acceptance of the Joint Committee's favorable report and passage of the bill.

SPEAKER DONOVAN:

Question's on acceptance of Joint Committee's favorable report and passage of the bill.

Will you remark?

REP. GODFREY (110th):

Thank you, Mr. Speaker.

Ladies and gentlemen, this Governor Rell's bill for Probate Court reform. And, as it's turned out, this is actually also the Probate Administrator's bill for Probate Court reform.

As you may have recalled, the Governor had proposed in her earlier speech this session that one of the ways that we could deal with some of the long-term issues regarding our revenue and budget package was to do some consolidations and some changes in the Probate Court system is such a way that we could get efficiencies of scale -- economies of scale, efficiencies in the court system, and certainly at the same time preserve the user-friendliness of the court system. Therefore, the Governor had convened a

working group that included all four of the caucuses that is presenting its work product to the House today.

Let me start by thanking those who have worked so very hard to craft this legislation over the last weeks and months: Representative Klarides, Representative O'Neill, Representative Fox, Representative McCrory, all in the room; Senator Doyle, Senator Roraback, extremely helpful; the secretary of the Office of Policy and Management, Bob Genuario, working out a lot of the fiscal details, not only for this bill, but for other fiscal matters dealing with the probate system; Probate Administrator, Paul Knierim, who is also here with us this afternoon; and president of the Probate Assembly, the group of probate judges in Connecticut, Fred Anthony from Shelton. And I especially want to thank our own Louise Nadeau from the Legislative Commissioner's Office, who somehow managed to translate our often dizzying discussions into the bill we're going to be considering today.

And the bill is a complete rewrite, Mr. Speaker, with a strike-all amendment, which I would ask the Clerk to call LCO Number 7720, and then I'd ask even the chamber to summarize.

SPEAKER DONOVAN:

Will the Clerk please call LCO 7720, which we designate House Amendment schedule A.

THE CLERK:

LCO number 7720, House A, offered by Representative Godfrey, et al.

SPEAKER DONOVAN:

Representative seeks leave of the Chair to summarize the amendment. Is there objection to summarization? If not, Representative Godfrey, you may proceed with summarization.

REP. GODFREY (110th):

Thank you, Mr. Speaker.

This amendment consolidates 117 courts into something between 44 and 50; requires courts to be open 40 hours a week and judges to work at least 20 hours a week; requires prospectively to be attorneys; consolidates accounting functions with the Probate Court Administrator's office to get economies of scale; creates the new positions of Probate Magistrate and Attorney Probate Referees; creates a new appeals process; creates a judicial compensation system based on workload, not revenue; creates a process using the expertise of Probate Judges to draw up the new district lines.

Mr. Speaker, I move adoption of the amendment.

SPEAKER DONOVAN:

Question before the chamber is adoption of House Amendment Schedule A.

Will you remark, sir?

REP. GODFREY (110th):

Thank you, sir.

The intention of this bill is to bring the colonial era probate courts into the 21st century. There are technology-based changes that needed to be done. Certainly, the centralized accounting function that is built into this bill will provide the economies of scale utilizing the office of the Probate Administrator to help to treat the courts as if they were a single-state agency, or single-state system.

That, in turn, will give this legislature a much better handle on the revenue and expenses and the finances, in general, of the Probate Court system so that we can make more knowledgeable decisions as we go forward into the future. It also recognizes that there are cultural changes that have occurred, certainly, since colonial times that we need to account for. It's not just about probating estates any more.

Over the years there have been changes made in

just the way we live that changes the workload and the workload effect on probate judges and probate courts. Let's face it. Science has extended our lives, at least as far as the physical part of us goes, but we still have found that as that has occurred, there has been an increasing need for guardianships, for conservatorships, and the probate courts has been the court has been the agency that has been bearing the brunt of that change.

Family life has changed, for good or ill, but the probate courts are dealing with more adoptions. They're dealing with more termination of parental rights, sadly. And this has bring -- again, brought a new workload burden onto them. Now let me just note, that the existing system of children's probate courts that we created a few years back that has won national awards; that has treated the children in the system so very, very well to almost everybody's happiness, is not touched, is not changed, is not dealt with at all in any of these changes.

And, certainly, one of the -- as this workload has increased, we have seen a much higher level of indigence who are parties to cases that come before the probate courts, obviously, impacting the ability of the probate courts to fund themselves.

And there have been policy-driven changes. The legislature has changed the state taxes. Our budgeting system has resulted in the fact, not the least of which that we have noted, that the probate court system -- the probate court fund is kind of looking at a functional bankruptcy as early as maybe December of this year that we have to deal with. Let me point of that this bill deals with the very long range, long-term abilities of the courts to just about self-finance, not completely, and is not designed to address the immediate needs, the immediate changes, that are going to be have to be done in the budget process to deal with this year and the next biennium.

How are we making these changes? What are we? Well, this working group of very thoughtful people pretty much decided right off from the get-go, of all the things we want to save in the courts, we want to save the user-friendliness of the current system. We recognize that the parties that are coming before the probate courts for these decisions are dealing with a very difficult emotional state of mind. These are family matters that touch on some of the core concerns of families, whether you're dealing with the estate of a recently deceased relative, whether you're trying to make a decision about your father or your grandparents

in a nursing home, whether you're looking at an adoption, all of these things are very emotional changes in the lives of the parties that come before the probate courts. And we have certainly seen that the existing probate courts and the probate judges, have had a huge amount of compassion to be able to deal with these, even to the point where judges leave their courts, go into the nursing home to where the parties are living and try to put that very personal spin on the ability of the parties to access the court's facilities.

This keeps the courts independent. There's no merger with the Superior Court. Yes, we discussed that. I know people outside of the building have discussed that but we decided in order to save the user-friendliness, the compactness, the -- the ease of accessibility that we wanted to keep the courts independent from the Superior Court.

Similarly, we decided and we hope you will agree with us, to keep the judges as an elected position that would require a constitutional change if we would decide otherwise, and we pretty much decided not to go down that road quite so soon.

We looked at the need to further professionalize -- if that's a word -- the probate

system. We're looking at them to be open regular hours. We're looking at them to be open 40 hours a week. We want to make sure that people don't -- can readily get to the court staff in order to begin all of the filings, to begin the work that the court needs to do at their convenience, not at the convenience of a particular judge, in a particular town, or a particular court.

We're centralizing accounting, which from the judge's point of view means they can spend a lot more time and pay a lot more attention to the needs of the parties of making the judicial decisions that we required them to do and spend much, much less time on worrying about the administration of their courts. And we're changing the way we pay the probate judges. Currently, it's based on the amount of revenue a particular court may produce. We want to change that and do so in this amendment to have it reflect the actual workload of the -- of the court itself.

And, finally, on the professional, we are including the Governor's proposal that prospectively, people, who stand for election as probate judges, do be attorneys, although we are very careful and recognize the experience of those nonattorney judges who currently exist, and they are grandfathered out of

that requirement.

We're looking at efficiencies in the court. Reducing the courts from 117 to that 44 to 50 number. We're looking at them to have a caseload of about 3,000 cases per year, one of the criteria. We want to make sure that the new courts are geographically accessible. We're trying to keep that convenience factor going. And we certainly would require a look at the available facilities. This does not intend to require any new courthouses being built, any large expenditure of taxpayer dollars to realize. We also want to make sure no towns are split and that the communities of interest that we've come to know are -- are remaining.

The big issue is going to be -- and I understand this -- how would these new districts be drawn. After long, long discussions and debate, we've created in here a system that will work, we hope, something like this:

At the Probate Assembly, the probate judges themselves in the next few months would have a crack at drawing the new district map. And they would submit that to a bipartisan commission that is actually modeled on the format that we use for doing the reapportionment of the General Assembly, only in

this case not are there legislative appointments but there's two gubernatorial appointments. It's strictly bipartisan. It does allow explicitly that legislators and the probate judges alike could be nominated to this -- excuse me, take him outside for a moment -- can -- could be nominated to serve on this commission. They'll take a look at this, and, hopefully, sometime in the late summer, we'll be sending it back to the General Assembly.

The changing the districts does require us to change a statute. We will have to come back into special session to take a look at the plan as a bill, will have to pass both houses, get signed by the Governor, the same as any other bill and, hopefully, that will do the trick. Although we have made a provision for the what-if, what if we don't succeed the first time to give the system a second crack at it, hopefully, that will work.

So that's basically the description of what's being proposed. Again, I want to thank all of the people who have worked so very hard on putting this all together, and I hope that all of you can join me in supporting this particular amendment.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Will you remark further on the amendment?

Representative O'Neill.

REP. O'NEILL (69th):

Yes, thank you, Mr. Speaker.

And I, too, want to urge support of the amendment.

I also wish to thank the Governor for participating and cooperating and providing useful assistance to our efforts, sending people to us to participate in our working group discussions and negotiations. I especially want to thank distinguished Deputy Speaker from Danbury for his hard work on this and leadership that he provided in keeping this progress -- project going throughout the months.

I read a newspaper article that said that after a week of discussions, if only it had only been a week. This has been going on since January in full earnest among us who have been meeting almost weekly I think, and sometimes twice a week to try to hammer out a proposal which, ultimately, is before in the form of House Amendment A.

I think the Deputy Speaker has outlined the provisions of this proposal very well. There are, of

course, people who do not want to see any changes to the system. That is really not an option. The system is running out of money. At the current rate, it will exhaust its resources probably by the end of December, possibly sooner. And, at that point in time, we will be faced with a very difficult situation where the Probate Court Administrator will have to make some very hard decisions. It will become increasingly a drain on the General Fund of the State of Connecticut. And the system as we proposed in House Amendment A, through a reformat, will see a reduction of approximately $3.5 million in total costs starting in 2011, which is the earliest that we can make these changes because the elected officials, the probate judges who are in office now, have the right to remain in office until that point in time, until January of 2011.

So the efficiencies that we're striving to achieve and we're looking forward to in the future cannot be achieved in the next year or next year and a half, although some of them perhaps can be in terms of the technology, but we have to lay the groundwork now for the significant reduction in costs that we believe will occur as result of the reduction in the number of elected probate judge from 117 to probably 50, perhaps

as few as 44. This is the most major reduction in the number of officials and an effort to consolidate various aspects of state government that I have ever seen.

It is a tremendous change in our structure for the probate court system, and it is something that we've talked about doing for most of the years that I have been sitting in this legislature. We have asked the probate court system to make these changes voluntarily and some of the courts have stepped forward, but for lots of different reasons that I think most of us can appreciate. It's very hard for a system to reform itself, and for individuals to decide that they need to give up the position of being a probate judge or their community needs to give up the small local court that they have lived with for decades, perhaps even centuries. But the time has come because of the financial burdens that exist within the probate court system, which include things like health care and retirement programs for the employees and for the judges that simply did not exist.

People talked about how probate court was founded in the 18th century -- or early 19th century, and why can't things stay the same way that they were for the

last 150, or 200, or 250 years. And the answer is that, well, if the probate judges and the clerks of the probate court were content to live as their ancestors did, perhaps then they could retain small courts in towns of 2 or 3 or 4,000. That would mean no health insurance, no pensions and very minimal amounts of income to the probate judges and clerks, which is what the situation was 200 years ago.

Now there were some probate judges in the 19th century in Connecticut who did very, very well. I'm told of that the probate judge in the city of Hartford was at one time the highest paid judicial official in the United States. Well, that's because Hartford was the wealthiest city in the United States and we had a system that was based on essentially a kind of commission system. A lot of people question whether that's a particularly good system for us to be taking into the 21st century, to have judges getting paid on the basis of the size of the estates or the volume of business that goes through their courts in terms of dollar value.

So what we have before us today is an effort to rationalize the probate court system and yet retain as much as we possibly can of the local flavor. Many of the probate districts will have to be consolidated,

obviously, if we're going to go from 117 to 50 or so. But, in many places, the probate court system will still be a very local court. There have been regionums and regional courts for a long time and some consolidations over the recent past. And what we will see is something fairly similar in many ways to what we've seen over the last 15 or 20 years in terms of that. At least that's my expectation.

We are going to give the Probate Court Assembly the first crack at redistricting and consolidating. These are the judges, members of the probate court assembly and they will have the opportunity to work out among themselves, knowing what they know about the probate court system, a plan which will be submitted to the redistricting commission and that plan, we hope, will be the plan that will be adopted by the redistricting commission and that will, ultimately, be adopted by the General Assembly in a special session to be held in the fall. That plan will reflect the thinking of the probate judges as to what they believe is the best outcome, and it should be borne in mind that the over the next few years, dozens of probate judges by virtue of a law that's been on the books for a long time -- that they have to retire mandatorily at age 70 -- that dozens of the probate judges currently

in office are going to have to retire over the next six years or so. So what we're talking about is perhaps accelerating a little bit the retirement program for some of the judges. We're talking about consolidating some of the courts -- these courts into somewhat larger districts than, perhaps, people would like to see done. But we provided criteria for the commission to consider, and we believe the Probate Court Assembly will certainly think about this when they're designing the districts that they're going to submit to the commission. That if geography is a problem, if you end up with a 300-square-mile district in order to get to the right population or the right weighted workload, but that's a factor to consider and allow for a smaller district, perhaps, so as to have less population but also to have a little bit more convenience for people to drive to it and a little bit more of that local flavor. So that we won't get those kinds of districts in all likelihood. But that's a decision that we're going to leave, in the first instance, to the Probate Court Assembly and then to this commission that's going to be making these decisions.

I think that this is a piece of legislation which if we can do this, we'll set a tone, I hope, for the

rest of the legislative session as we are moving forward in dealing with much larger problems of state government organization and efficiency. This has been a long time in coming, and it has been brought about because of the financial crisis in terms of the probate court system's ability to sustain itself, but I think it's an opportunity to make some significant improvements in our system.

I just received an email, which comes from one of my constituents who is strongly opposed to this amendment that is before us to the bill. Part of what is in this email is that the probate judge, who is the sister of the writer, for over 20 years and who is not an attorney but is still elected over attorneys running against her will be forced to lose her job and merge her court into a megadistrict. And, while that is possible, it is equally possible that when a district is formed, it will not be a megadistrict. It will be just somewhat larger than the current districts that are in the same neighborhood and that the current judge will be perfectly well able to run for that seat, and perhaps get elected as the judge in this new seat, in this new district. There's no requirement that incumbent judges who are not lawyers have to retire. They are grandfathered in. And they

can stay on as long as they stay below the age of 20 -- 70 rather and are able to get reelected in the future.

So that for those people that are currently in these positions, there is no requirement that they lose their jobs just because they are not lawyers, but there is the potential, as is the case for all of us sitting in this Assembly, that you can lose an election and lose your job that way.

There's also a suggestion that somehow because we're going to have somewhat larger court districts in areas where they're now very small, that everybody's going to be required to go out and higher an attorney to represent them in a probate matter. And, while it's possible you may have to do that today, in even the smallest of probate districts, again, there is no requirement that lawyers have to be hired to represent people in the newly consolidated districts. If the matters that people bring to the probate court are complicated and they require an attorney, then they have to hire one today. If the matter they bring to the probate court is relatively simple and easy to do and can be done by someone without a legal background or training, they could -- are still be able to do that going forward.

Obviously, when you have a larger district, you're going to have more cases that are likely to be more complicated than when you have a very small district, but it's still going to be possible to do business in the probate court system for nonlawyers in exactly the same way that it is being done today.

Another comment that's made in this email is that the writer believe that local knowledge is the biggest benefit of local control. And, certainly, knowing that Mrs. Jones hated her son-in-law and would never have left him anything in the will is a factor that a person who just lives down the street -- which is much more likely to be the case in a probate judge in a town of 2 or 3,000 -- knowing that, perhaps that judge brings that knowledge to the table and is able to solicit testimony and work through the case in a way to, perhaps, search more vigorously for evidence of some sort of impropriety in terms of the way a will is drafted, if there's a will contest. But the likelihood in our modern, highly mobile society that even in a very small town, a judge is going to have that kind of intimate knowledge of people the way they used to 10, 20, 30, 40 years ago is significantly diminished. In most of our towns, people come and go and while the oldtimers may -- and I lived in the same

town my entire life, and my parents lived there most their lives. My grandparents are buried in the same town and my great-grandmother is still buried in the town of Southbury. We're unusual. Most people move to Southbury and other towns in my district, live in the town for a few years, and then move someplace else. And the probate judge is not likely to gain that kind of tremendously intimate knowledge of the lives and the relationships that people have in their personal lives, which might be helpful to them to understand exactly what somebody meant when they wrote something in a particular will or when they deeded something to somebody or when they drafted a trust or something of that sort. So it's possible that kind of knowledge could exist. It's not likely -- not as likely anymore, given the changes that we have in our society.

So I would urge everyone in the chamber to support the amendment, and the bill once the amendment passes, which I believe that it will and see this as a major change in the way we are running the probate system but an improvement that we're keeping a great deal of local flavor of the court system. We are keeping it an elected system so that people vote for the probate judge. It's not something that's going to

be appointed by the Governor or confirmed by the legislature. It's not something that's going to happen here in Hartford, people are going to handed a probate judge from somewhere other part of the state that's going to decide their cases.

It is going to be a local person, but it may be a local person who lives in the next town over, as opposed to the town in which you live. But that is something that I've noticed that even in my area of small towns, people from the smaller towns in my district, when I frequently meet them, it's at the K-Mart in Southbury, not necessarily on the street in one of the other towns in my district or necessarily at some location like that. People are used to using somewhat regionalized facilities for their commerce, for their doctors, for other activities in their lives. And what we're doing here today isn't going to be taking them very far out of their normal orbit of activity.

These districts are not going to be megadistricts. They're just going to be somewhat larger, and, in some cases, there will be no changes at all because the districts we have, in many cases, are going to be just about the right size, and they probably will be able to survive, not all of them.

But, for many people, there won't be that much of a change.

So, again, I want to thank everybody that worked on this. I didn't have a list that the Deputy Speaker had made up, but this was a joint effort. It was a bipartisan effort. It was a bicameral effort. It was an effort between all three branches of government, and I believe that we have a good product before you here tonight. And I hope everyone will vote for it.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Fox.

REP. FOX (146TH):

Thank you, Mr. Speaker.

I rise in support of this amendment.

I also share Representative O'Neill and Representative Godfrey's comments with respect to the people who worked on this bill. It truly was a bipartisan effort where the individuals who participated, in my opinion, clearly wanted to preserve the system and do what's best for the users of these courts going forward.

Mr. Speaker, the probate court system handles over thousands of cases. Judges are spending time on

cases that involve the decedents estates, as well as guardianships of minors, psychiatric commitments, guardianships of the mentally disabled, and conservatorships for those who are mentally ill or elderly. In addition, probate court judges handle matters that help elderly persons obtain benefits, as well as drug addicted persons obtain services, and children at risk obtain homes -- obtain safe homes.

Mr. Speaker, the probate courts have grown in recent years in terms of the level of cases that they handle, as well as the level of expertise that is required. Now, for many years now, we have discussed the financial issues that the courts are facing, and this year the Probate Court Assembly, with the work of the work of the Probate Court Administrator, developed a strategic plan and that plan was designed to work towards consolidation, as well as address many of the other issues that the courts are dealing with. The court -- that plan was approved by over 80 percent of the judges. Now what we have here before us is not that plan, but it does incorporate many of the elements of that plan. What has happened, however, is that the economy has worsened, and the crisis has accelerated.

During the public hearing before the Judiciary

Committee, the Probate Court Administrator essentially said this is a sink or swim time for the courts. The courts need to act now. Recently Chief Justice Rogers in a speech before the Probate Court Assembly also reiterated that the time to act is now and that a plan alone is not enough but action is required. And the reason for that, Mr. Speaker, is that the current economic situation has made the problem -- problem worse. The decline in real estate and securities values has further eroded the system. The probate court's revenue is directly dependent upon the values of the estates and the trusts that come before those courts, and, with the rapid decline, we are in a situation where these courts may run out of money this year, as Representative O'Neill just stated, and, with that, it could be chaos with respect to the important matters that these courts handle because those cases are not going to go away. So it is important for us to act, and it's important for us to act now.

Now, I would also like to point out one of the items that's in the bill, which I think is important and I want to just make sure that the members understand it. What this bill allows for will be the appoint of probate court magistrates, as well as attorney probate referees. And the probate court

magistrates will be former judges of probate who will be appointed by the Chief Justice upon nomination of the Probate Court Administrator, and they would serve for three-year terms and what would happen is that probate judge could refer a matter to one of these probate court magistrates. So, if an individual who is a sitting judge now, finds that their court is consolidated and they, for whatever reason are no longer a judge within an existing court, they could continue to serve as probate court magistrates.

Now, the section that deals with attorney probate referees is modeled after the attorney trial referee that exists in our Superior Court, as well as the fact finder program that exists in our Superior Court. And what this would do is it would enable attorneys who want to gain experience in the probate court system, as well as handling matters as a fact finder or a judge, to serve upon appointment by a probate court judge or the Probate Court Administrator. And it would enable them to gain the experience that is necessary for them to also, potentially, someday become a judge. It would be the hope of myself and I believe many of the members of the working group that this -- the attorney probate referees would represent a diverse area of the community. It would enable

those who traditionally do not necessarily participate in the probate court system or participate as judges, it would enable them to gain experience so that they could, too, potentially serve as probate court judges. And that's an important part of this bill, and it's one that was discussed amongst the working group, and I think that it was certainly and makes me feel better about the amendment as we go forward.

Mr. Speaker, Representative Godfrey stated when this bill was brought out our probate courts have existed since colonial times for over 300 years. It is not unheard of for changes to be made to the way the system goes forward and general assemblies have in the past made adjustments to the way the system works. We find ourselves today in time where we need to act, and we have important matters that our constituents need to have resolved. We have important matters that will be coming up in the next six months, the next year, the next five years and the next 10 years. And it is important that we have a system that works as best as possible, and I do believe that this amendment will do so and I urge adoption of the amendment.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Christopher Lyddy.

REP. LYDDY (106th):

Thank you, Mr. Speaker.

Mr. Speaker, I have a question for the proponent of the bill.

SPEAKER DONOVAN:

Please proceed, sir.

REP. LYDDY (106th):

Thank you, Mr. Speaker.

What will happen to districts where the probate judge will retire before January 11th?

Will there need to be a special election to fill that role or will the consolidation commence process at that point?

Though you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Mr. Speaker.

In the normal course of events, of course, when a vacancy occurs, when a judge turns 70 and meets the constitutional requirement that they retire, we'd have a special election; however, understanding that between the passage of this bill, the elections in November of 2010 and the taking of office on January 5th of 2011, the districts are going to change. So

there is included in this amendment a section that, in effect, says we won't have any special elections. We will let those courts and we figure there are three or four of them where judges will be turning 70, we'll let them stand vacant for the short period of time between now and November of next year.

And that, as is current practice, the Probate Court Administrator assigns probate judges from surrounding towns to come and serve in a particular town to make sure that the services are maintained. So there will be that continuity, but we also recognize the fact that we're not going to put someone through a political campaign in a district that may or may not exist when elections roll around in November of 2010.

SPEAKER DONOVAN:

Representative Lyddy.

REP. LYDDY (106th):

Thank you, Mr. Speaker.

Mr. Speaker, in Newtown, we are in a very unique situation. We are in the process of building a multimillion dollar facility. We are very proud of our probate court. We are -- currently, there will be, you know, new office space, vault storage, hearing rooms, and so this kind of proposal makes

people in Newtown very, very nervous. Perhaps this could be a great thing, perhaps it can't. Is there any incentive for a judge currently to consolidate prior to him or her retiring?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Godfrey.

REP. GODFREY (110th):

Yes, thank you, Mr. Speaker.

Yes, there are. Under current law, that this does not repeal, those judges that serve in districts that are merged and don't continue on whether or not they decide not to run again or whether they run again and lose, get four years additional retirement credit for their state service. And this was a long discussion over continuing this, and we all felt very strongly that we needed to continue this particular part of our statute that was passed in about 1997 -- if I'm not mistaken -- when we were looking to do voluntary mergers, to continue pretty much because it was a promise we made and a promise that we should continue to keep; however, after January 5th of 2011, that incentive will go away. So it will be able to be used by those judges who are retiring at the end of this term and then be repealed from the statutes.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Lyddy.

REP. LYDDY (106th):

Thank you, Mr. Speaker.

One final question, was there any attempt to look at fee increases as a way to generate revenue for the probate court?

Through you.

SPEAKER DONOVAN:

Representative Godfrey.

REP. GODFREY (110th):

There was some discussion. There is at least another bill I'm aware of, I think, in the Senate dealing with probate fees but faced with the particular fiscal and financial issues revolving around the courts, we pretty strongly thought that wasn't a path we wished to go down, at least not within the four corners of this bill.

Where are the fees coming from? Well, there are fees, obviously, with the estates, but it's the real taxes on that and the real money, revenue, on that is for estates worth $6 million or more. And, unfortunately, because of the busting of the real estate bubble, there's much less of those than there

was a year and a half ago so that revenue has decreased.

And, when we're looking at conservatorships and guardianships and adoptions, again, those very personalized family issues, we pretty much erred on the side of compassion and said we really don't need to burden the parties that are coming before our court in these very distressful or stressful circumstances with additional fees so we kind of inclined against that. And, so, yes, we did talk about that briefly, but that was pretty much the decision we came to.

SPEAKER DONOVAN:

Representative Lyddy.

REP. LYDDY (106th):

Thank you, Mr. Speaker.

And I thank the proponent for his answers.

SPEAKER DONOVAN:

Representative LeGeyt.

REP. LEGEYT (17th):

Thank you, Mr. Speaker.

Through you, a question to the proponent of the bill.

SPEAKER DONOVAN:

Please proceed, sir.

REP. LEGEYT (17th):

Thank you.

I rise tonight to acquiesce in the need for this legislation. I understand the issue that the probate court system is struggling and is close to going in the negative balance, and I understand that there is a balance to be struck between cost and convenience. And I credit the group of people who have worked on this over time. But I have a question about the cost to the municipalities.

If there is consolidation and some town is the recipient of a consolidated court or if a town finds that its court is part of a consolidation that will occur in a different town. Has there been any discussion, any consideration of how the expenses of preparing those courthouses to service larger districts will be managed and if it is going to be a cost that will have to be borne by the municipalities, or are there other funding systems in consideration?

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Mr. Speaker.

Yes, we did have discussions about this. Now under current law, all municipalities make a

contribution toward running the probate courts. Whether or not it's a single-town probate court or whether it's a multitown probate court, they all kick in to help support, but it is not the major source of revenue for the probate courts. It's ancillary, and we're not touching that, at least not in this bill and not today. We're looking at -- and we have assigned, in this bill, the task through the Probate Court Administrator to -- once the lines are drawn, to look at the various court facilities that are currently available, ensuring that at least one of them has the size and the vault size and all of the statutory requirements and the amiability to continue to be user friendly and convenient for the public. So we're not talking about building any new courthouses, having to construct any new courts. We want to utilize current facilities. So that was the extent of our discussion and the -- the relatively minor municipal contributions will remain as they are in this amendment.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Representative LeGeyt.

REP. LEGEYT (17th):

Thank you, Mr. Speaker.

And I understand the answer and have a further question. In light of that, since courts are going to be consolidated, even municipalities that have a large courthouse, with all the necessities that that requires, may find themselves in need of further space if they are recipient of a consolidated court, and so I can imagine that there will be increased costs for municipalities and perhaps municipalities who give their court over to a larger court will be required to make an assessment to cover the costs of a larger court that they might be a part of.

I'm concerned that this financial obligation is sitting out there and that in the process of determining how the consolidations will occur, I think that this issue of costs to municipalities to give over their court to another town or to take on a consolidated court in their town is going to be a significant budget issue. I was wondering if there's -- there had been any discussion about a bonding measure or some other means whereby costs to municipalities for this conversion will be mitigated?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Mr. Speaker.

We certainly had discussions and we, of course, have the expertise of the Probate Court Administrator in the room and, as we discussed the facilities issue, which is actually what we're talking about here, he was very confident that there would be no need to do any major kind of work on any particular courthouse because -- because there's a goodly number of them that are large enough to be able to facilitate one of these merged courts. And we're not talking megacourts in spite of some of the critics use of that word because we are trying to protect and save that user-friendly format that the probate judges are renown for. So we're not looking at a lot of steel and glass and overwhelming courthouses or big construction in this, and we felt very strongly that there is no need to have to spend taxpayer dollars in addition and in a bonding bill or any kind of capital improvement bill in order to do this merger. So, relying on the expertise of the people on the ground, the people -- the probate judges, which is pretty much laced through this entire bill, and which are the people who are going to do the first plan -- the first redistricting plan and can take that into account because they know firsthand what the facilities that

are available are like and which ones could be most readily used by a somewhat larger court, we felt very, very confident that we would not need any additional bonding money or any state funding to -- in order to facilitate the -- the -- this bill going into effect.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Representative LeGeyt.

REP. LEGEYT (17th):

Thank you, Mr. Speaker.

And I appreciate that answer. I understand that it might be premature to discuss and be concerned about the cost to municipalities, but it's clearly a resulting matter of our action here tonight, and I know that in the situation of town clerks' facilities that there are strict guidelines about what needs to be in place, how much space, and so forth.

In one of my towns, the town clerk's vault is considered too small and they're under a deadline to make it bigger. But I'm wondering, through you, Mr. Speaker, if there is any consideration or would there be any options to give towns, if they did need to add some space and improve the space that they have, would there be a potential for that to be spread out over time so that it wouldn't be such a crunch all upfront

when the redistricting occurs.

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Mr. Speaker.

But there is one big difference between the probate court vaults and requirements for saving and archiving material and the town clerks. For many years now, the probate courts do everything and save everything electronically. They don't have huge amounts of paper that need to be stored. There's backups offsite. There's copies in places, like Stone Mountain, or somewhere like that. And they have been actively working to scan in archival materials and, eventually, will discard a lot of the paper that has been used over the years so the amount of space that probate archives will take up is going to be vastly smaller than anything considered now either in the probates courts, as they're currently constituted, or certainly much, much different than the situation in town clerks' offices, where everything pretty much still is all copies and paper.

SPEAKER DONOVAN:

Representative LeGeyt.

REP. LEGEYT (17th):

Thank you, Mr. Speaker.

And I -- again, I fully understand the issue and the urgency of the bill before us, and I'm supportive of it, but I'm still concerned about that aspect of the municipality's obligation to provide a courthouse that is -- that fits the bill and is properly constructed to follow the statutes that require it. I -- but I thank the Deputy Speaker for his answers and thank you for your time.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Spallone.

REP. SPALLONE (36TH):

Thank you, Mr. Speaker.

Mr. Speaker, I rise somewhat reluctantly but -- but certainly determinedly to oppose the amendment. I've been a member of the Judiciary Committee since I came to the legislature, and the probate issue is one that I've tried to work on, when possible. I was pleased to join Representative Fox and others in working on certain reform bills in the past so I consider this a disappointing day.

We speak of economies of scale in our modern society and have probably since the end of World War

II, maybe before. Why is it, as population increases, Mr. Speaker, it make sense to have fewer facilities to serve the people? Why is that? Our population has gone to 3.5 million so we need fewer courts to serve our people. I was disappointed at certain mergers that occurred in the Superior Court, as well, for the same exact reason.

The courts belong to the people of the State of Connecticut. They do not belong to the judges that sit in them. They do not belong to the bar that practices before them of which I am a member. They belong to all of us. They belong to the people they serve. They do not belong to the General Assembly. They do not belong to the Governor of this state. So when people have to travel further, when the docket is busier, when a matter is not reached in a appropriate time, when questions are not answered in a way that a person can understand, and we can look back and say this is the day it began.

The proponent of the bill mentioned a history that led us to this day, and I think some of it does bear repeating. The nature of the probate courts did change, and this body did not react accordingly. This body gave these courts more work but did not consider the long-term implications. It either failed or

refused to do so on the system. Added work, did not adjust the system.

There were more indigency matters that came before our courts, but we did not provide more support for those. In Superior Court, we are careful to weigh fees, and so forth, to provide for counsel. That is a responsibility of all of society. We failed in that responsibility with respect to the probate courts. I would say over and over again. The regional children's probate courts have been praised and that is appropriate, but they were put into place based on financial assumptions that were inaccurate and it was shown. The Chief Court Administrator was disappointed when he learned that the Probate Court Administrator -- not our current one, the one in office at the time -- had underestimated the cost of those courts. We debated that on the floor. We defeated amendments, and we continued forward with that.

The cost of those courts, as meritorious as they can be, have helped drive up the cost of the -- drive down the probate fund. And this General Assembly, as was referenced briefly, raided the Probate Fund to balance the budget earlier in this decade. Certain costs could have been picked up by the General Fund

without too much effect on our large budget, including health care costs or indigency costs. But I submit that those concessions were held back in order to try and encourage consolidation.

Simply put, this Assembly did not address the probate crisis squarely as it emerged and that's disappointing. Now, even if we accept on the merits that this merger must take place, that these consolidations much occur, that the fund -- the Probate Fund is headed to deficit, which it appears to be, then lets consider the merits of the amendment.

We're going to continue to elect judges even if our smallest courts are going to have 40,000 in population. We don't have a tradition of electing judges here in this state, except for probate judges. And that's the quirk in the system I was willing to accept, personally, when most of the courts were small and most of the constituents knew the judge personally, and most of the races were nonpartisan in nature. But I don't consider it acceptable on a larger scale.

The decisions of judges are called into question when they're elected. Campaign spending, campaign fundraising issues come into play. Frankly, if anybody should be subject to citizen election program,

it should certainly be judges. I mean, I think we should be, and I support the program unreservedly, but judges certainly should be, if you want to separate campaign funding from decisions.

And, then, frankly, if we're going to go this far, them maybe we should more strongly consider a merger to the Superior Court because the infrastructure is in place. We'd have to add a few more judges, but if we're saying that matters have become more complicated, that rights need to be protected, then maybe we should've considered that. And I submit that if this passes, we will be doing that. This assembly will be merging the Probate Court into the Superior Court within the decade.

There will be costs associated with the merger, Mr. Speaker. We'll need space for filing. We'll need computers. We'll need desks. We'll need space for more staff. We'll need more staff. There will be costs. I believe it's underrepresented in the fiscal note. There's no question they'll be costs associated with consolidation. There are some ideas that made sense: Certainly, paying on the basis of workload rather than how wealthy your town is; consolidating accounting functions certainly makes sense; taking on indigency costs, which I said are society's costs.

And, then, we raise question of why of all the state agencies and functions this court performs -- sorry -- this State performs. The probate system, full stop, has to be self-sustaining. Where did that notion come from? Why is that necessary? We don't make the DEP be self-sustaining, DCF, the Superior Court, the General Assembly, et cetera. So that's -- that's an interesting axiom that we should think about. So maybe just some changes in how we fund those courts could have helped them.

There have been exaggerations -- not on the floor today, not on the floor today. There have been exaggerations, hysteria, misrepresentations, inaccuracies regarding this debate over the last several years, not made today on this floor at all, but more out in the general public. And I think we could have done a better job. That's my main concern. I think as we go forward, this is not a good day for serving the public. I don't believe this helps us balance the budget. I'm disappointed. I regret that I feel the need to rise and oppose the amendment, but I feel that I'm representing my constituents in doing so, and I think we can do a better job.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker.

A few questions to Representative Godfrey, please.

SPEAKER DONOVAN:

Please proceed, madam.

REP. SAWYER (55th):

It is nice to give him practice again on the House floor.

Representative, in your estimation, if the commission came back with some number a little bit higher than 50, say, 50, 55, 57, do you believe that that could be something that could be accepted under the spirit of this law, though not the letter of the law?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Mr. Speaker.

No. We had very long discussion about that precise section and there were those of us who very strenuously actually wanted to stick to the 36 number

although not based on Senate districts that the Governor had originally proposed. There were those of us who, like you, were looking for a little bit more flexibility, and, in the course of the discussions among all of these people, the consensus that we came to, most especially, with both the administration and the probate judges, themselves, that the compromise that we came to was this 44 to 50 number. So I would not expect the Probate Assembly or the commission to exceed the 50 ceiling.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Sawyer.

REP. SAWYER (55th):

Thank for his lengthy answer. That's very interesting.

Did you by any chance look at exactly when the next election would be if, say, this whole process moves forward as in this amendment, after it becomes law, and the different -- they come back with, say, 50 and it's approved in October by this -- by the appropriate bodies. When would the next election be?

Through you, Mr. Speaker?

SPEAKER DONOVAN:

Representative Godfrey.

REP. GODFREY (110th):

Thank you.

Through you, Mr. Speaker, the next election will be in November of 2010. We put together, after long discussions and using especially again the expertise of the Probate Court Administrator, we very carefully planned out this schedule, this timeline, so that those people who wish to run in the general election for probate judge in November of 2010, would have sufficient time to do all the things that you and I do in an election year to prepare for an election or reelection campaign: form the committee, start raising the money, start planning the -- the campaign out. And normally, for probate judges, that starts about the beginning of the year in January of 2010. So long before that I'm hoping the time table on this, strongly urges all the parties to complete this by the middle of September that that would be sufficient time for those who may wish to be candidates, in 2010, to be able to prepare for this new order of things.

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, sir.

Was there any discussion? Because these, say there are 50, these -- or 44, these districts will be, could be extremely large, extremely large. Some could be larger than Senate districts, some could be much larger than a House district. Was there any discussion about whether or not these particular races would be funded under the new election laws and the election funding that we are privileged to ourselves, through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Godfrey.

REP. GODFREY (110th):

Again, we're not looking at megadistricts. We've set 40,000 population, 3,000 workload, as the criteria by which these new districts will be born -- will be drawn. Plainly, there are existing districts, five, six, seven, eight times larger than that now -- the big cities, much, much larger where you've got regional courts already. So, you know, we're looking at a number that all of the new money, the new way of paying for these courts will support. And, again, when the Probate Court Administrator did all of the math and projected it out over the long-term, the anticipated revenues won't pay for much more than 50 courts. And that was the practical way that we came

with -- that we came up with that range. This wasn't pulled out of the air, this -- this wasn't some kind of magical formula. It was with this amount of revenue anticipated coming in, how many courts can we afford, and the number came up somewhat less than 50.

Though you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Sawyer.

REP. SAWYER (55th):

I thank the gentlemen for his answer.

Certainly, we have a number of large cities in this state. There's no question about that, but what I can tell you is that there are many more small towns and small probate courts because, right now, we have 117, if I'm not -- not mistaken. Many of them are very small, many of them are 5, 6, 7,000 people, and, in my particular instance, I was asked to look mergers within my district and to begin working on that much earlier this year so I did. And I was very fortunate and very pleased to be able to go back -- come back and report back to the probate court system that the town of Hebron has talked and elected that, yes, they would consider and would like to and they voted through their legislative body that they would merge with the towns of Andover, Bolton, and Columbia court,

which is a three-town court, so that would make a fourth town for that. So they've agreed to that and there's been very warm reception from those other towns. Again small town courts coming together that have a true nexus, a true small town nexus that actually have a commonality of a particular regional high school in two of those towns so they're very pleased to do that.

In the discussion in Marlborough, which is one of the other towns in my district. There, too, was a discussion about whether or not they should merge and that legislative body also took positive action, Mr. Speaker. And what they did was decided that they, too, could merge, and they would merge, though, with a much bigger town, with the town of Glastonbury. And both those legislative bodies have voted and written letters that they would merge so we have letters of intent.

It was a very positive situation. The political situation, however, I can tell you is one that was easy. Easy because in one town the judge was about to retire and did retire in March. So it left an opening, and they had to decide what to do. That town had been so pressured by the poking and the prodding of not having the right size court and not having the

right size vault and not having the -- be open long enough and they were. It was problematic for them.

In the other situation the gentlemen had thought about retiring. It was questionable whether or not he was going to. And when he thought about it, he decided that the merger with the other town would work well. And so we didn't have a real fight, an election fight, going on in any of those circumstances.

What does that have to do with this bill? Well, in some ways it makes me very sad that this bill is here because I went through all this work, and I had these wonderful towns that stepped up to the plate and they went through all the effort of meeting and debating and deciding and writing letters and coming up with intent. So what I will be doing in the future, hopefully, on one of the other bills when it comes up, is I will propose an amendment that talks about this particular merger because of the nexus and because of the contentment in these particular set of circumstances in these towns. And it was a lot of work, ladies and gentlemen. Let me tell you that. It was a lot of work to do it the way we did it.

I guess I would also like to complement the drafters of this particular legislation, whose -- people's whose names are on the top and thank those

that also worked on it on the perimeter. I counted up. I think we have about 150 years' worth of legislative experience by the old -- by the legislators that are at the top of the page so they have been around a bit and have looked at this issue for a long time, and I would also like to thank everyone for the bipartisan nature in which they worked on this particular bill.

One other question for Representative Godfrey, if I might. Did you contact the counsel on probate, the judicial conduct and talk to them and get any of their ideas?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Godfrey.

REP. GODFREY (110th):

Though you, Mr. Speaker, no. We didn't talk to the Probate Judicial Counsel. The only other groups who weren't represented in the room that we did talk to were the Connecticut Bar Association, particularly, the probate subgroup or committee on that, and we -- the Probate Court Administrator was in constant communication with Judge Quinn and, in turn, with the Chief Justice, keeping them up to date on the discussions that we were having. And, clearly, the

Probate Assembly, there are lobbyists involved as there are in most other things going on in this building, and they were certainly kept up to date on what was going on but not that particular group.

SPEAKER DONOVAN:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, sir.

And there was a reason for that question. There is a counsel of probate judicial conduct, and, ladies and gentlemen, that's one of those mystery groups that is out there. In the case that you had someone that was very angry at their particular probate judge. They had a bad experience. They felt that it wasn't well represented for the case that they had. They felt that they weren't looked at correctly, any number of reasons it could be. They could then approach, with their complaint, to the Probate Judiciary Conduct -- the counsel on Probate Judicial Conduct and what we found over the last few years is it has reinvented itself a little bit, and we've been very pleased in the work that they have done in being very thorough on the review of the cases and complaints before them.

One of theories, since I asked that, is because one of the things we know is that in this bill it says

that no longer can anyone become a probate judge unless they are an attorney. And I'm going to stand up for the little guy on this one, and I'm going to say that in the experience that I've had, and the experience that I can tell you about is in two of my towns in which we've had judges that have not been attorneys, and there has not been a single complaint against either one of them and it's about 30 years' worth of experience as probate judges, not a single complaint.

Now these gentlemen are very well read. These gentlemen studied the law, and, when they needed assistance on a question, they called to obtain the assistance if they needed a question on law. And I can tell you that they are -- they have been the pride, the pride of their communities and they work very, very hard. I can envision in the -- that someone was, say that has been a paralegal in a office that works on estates; someone that has a lot of experiences, a social worker perhaps; someone has a combination of experiences; someone who attended law school and for one reason or another, did not decide to sit for the bar, could also, perhaps, be a probate judge and be one that is excellent. So I am very sad that it has been written in there -- I understand

where the nexus came in. So that's one piece that I feel very badly about, because I think it excludes, perhaps, a very small number of people in this state that could run for that office but some very talented people.

And, ladies and gentlemen, let me tell you a little something else about the funding of the probate. Our General Assembly -- our General Assembly is partially to blame. Earlier part of the 20th -- the 2000 -- I can't remember if it's 2002 or 2001, we -- a collective we, here, of the two chambers and those that have to pass the budget, raided the fund and took out $15 million, I believe, was about the figure. And it's frustrating to me that we know now that that is a very -- that would have been a very, very important pool of money. But we also changed some laws between then and now that affected the probate system. I should say, in the last ten years we effected -- some laws effected the probate system, when we looked at the different ways that we were going to do estates and have estate taxation.

So, at this point, even though I am frustrated because I thought I was working in the right direction, working on mergers and I disagree with the aspect that a probate judge must be an attorney and I

disagree with the number 50, because I think it's inflexible, I will be voting for it and my hope is that, as things move along and maybe in October when we come back -- is that correct, Mr. -- I won't ask a question -- I believe it's correct that we'll be back in October -- when we come back to look at this particular legislation, if they come up with a number, that maybe, perhaps, some things can be addressed.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Betty Boukus.

REP. BOUKUS (22nd):

Thank you, Mr. Speaker.

A question to the proponent please?

SPEAKER DONOVAN:

Please proceed, madam.

REP. BOUKUS (22nd):

Thank you.

Before I do that, I just want to say I, too, appreciate all the work that's been done by the members of the committee. I'm also very impressed with my judge of probate, Judge Famiglietti and Judge Dorval, from the City of Bristol, which I also represent and many of the other judges who have been

working on this for some time and trying to get together and before you go out and assign them, they've kind of worked out some of their agreements.

And Famiglietti -- Judge Famiglietti is not an attorney but her home is filled with attorneys. She has two sons and a husband that she gets responses from, but the reality is she is the judge so she gets her work done and does it well. My question to you, Representative Godfrey, is this, if the town of Plainville and the town of Bristol work out an agreement ahead of time, is that set in stone with the legislative bodies voting for it, or is this still something that may be considered somewhere else and they will not be able to join. Plainville has a population of 17,000; Bristol 63,000.

Thank you.

SPEAKER DONOVAN:

Representative Godfrey.

REP. GODFREY (110th):

Thank you.

Through you, Mr. Speaker, I would certainly encourage those two towns to continue their discussions. And -- and those numbers sound pretty good. Now what we're anticipating going on, obviously, is that they'll be a plan done, but it'll

be done by the probate judges, including those two that you have mentioned. They'll all be a part of it. And we're hoping they come out with a plan that meets the criterion that we have put in this bill that respects the amount of money; that respects the communities of interest; that respects the geographic areas so that the courts remain easily accessible to the people who use them, but they'll be in the driver's seat along with all of their probate judge colleagues in making this initial, and I fervently hope last, pass at drawing the new district map.

Those will be presented to the commission. The commission will review them. Hopefully, they'll pass them along to us sometime in September or so. We do have to pass a bill because we would be changing a statute that exists but that kind of experience is what we want in this process in that part. And, of course, your nonattorney judge is grandfathered. She will be continuing to be able to run in the new district and, you know, take her -- her case to the people, as they all will have to do. And I hope that answers your question, Representative Boukus, through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Boukus.

REP. BOUKUS (22nd):

Thank you, Mr. Speaker.

It certainly does, and I hope that because of all the groundwork that they've done. That they've been able to work cooperatively for sometime. They've gone to their counsels, put the case before them and even though the voting isn't -- I don't believe it's finally done, that they would be agreed -- be able to come together.

And I thank you, again. I thank you for all the work that you've done.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Miller.

REP. MILLER (145th):

Thank you, Mr. Speaker.

I have a couple questions.

SPEAKER DONOVAN:

Please proceed, sir.

REP. MILLER (145th):

Thank you, Mr. Speaker.

There's 117 entities or small businesses currently. We're going to consolidate them to 50. I don't know if each court has one secretary or one clerk or two secretaries and two clerks. How will the

employment picture be resolved to make these people fit into the 50-court system?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Mr. Speaker.

Through you, Mr. Speaker, with the consolidations, in the long run, obviously, we're hoping there's going to be some efficiencies that come about, but it may not be necessary right off the bat.

I can't answer your question fully, Representative Miller, because there are so many variables right now. We don't know where the districts are going to be, the particular sizes of them, but the work load obviously statewide isn't decreasing. They'll still be the same number, or actually an increasing numbers, hopefully, not of estates but we can project, you know conservatorships continue to incline, guardianships continue to incline, adoptions continue to -- to rise. The workload is getting heavier to the point -- the probate courts are actually some of that -- they even process passports. They're that diverse a court.

Hopefully, in the long run, we'll see economies

of scale in staffing, but I'm not particularly worried that they'll be a lot that wouldn't have happened anyway right off the bat.

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Miller.

REP. MILLER (145th):

Through you, Mr. Speaker, another question.

Again regarding the employees, through you, Mr. Speaker, to Representative Godfrey.

Conflicts of interest when courts are consolidated, you bring people together where there may be some kind of a conflict that may arise. For instance, you have a probate judge and you may have a layperson who is a probate judge. You'll have staff person from both judges, is -- if there's a conflict of interest in that office, how will that be resolved?

Though you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Mr. Speaker.

Through you, there is currently and this bill, this amendment, doesn't the judicial -- the Probate Judicial Code of Conduct, which deals with all of

those kinds of issues, all of the conflicts of interest, whether it includes the judge themselves and peripherally their courts and their staff. We're making no changes to that. Conflict of interests are still going to have to be dealt with. In many of the cases now, where a judge won't take a case that comes into his or her court, it's because there is -- is that potential conflict of interest, in which case, of course, under current law and would continue under this, the Probate Administrator assigns a different judge who doesn't have a conflict of interest to preside over that particular case.

So I think that, you know, the ethical -- the code of conduct issues continue to be kept at that very high level that we've been seeing now and that those -- those kinds of conflicts of interests will continue to be dealt with the same as they have been, through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Miller.

REP. MILLER (145th):

And, through you, Mr. Speaker, last question.

In the Bridgeport area, at times there have been some complaints made. How will the courts be administered and how will the oversight be done under

this consolidation plan? Will there be any changes made or whatever?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Godfrey.

REP. GODFREY (110th):

This -- maybe, Mr. Speaker.

We put together a process here by which the Probate Assembly reporting, hopefully, sometime this summer to this commission we're creating, will look at the issues of consolidation, will look at -- they'll make a map. They'll show us the districts, you know. It's one of these -- we keep joking about it. Yeah everybody's going to get their crayons out and start filling in, you know, each of the towns, and we'll see what -- we'll see what comes out of that.

We have a bipartisan commission in place to oversee that. The probate judges themselves through the Probate Assembly and their president are more than happy, not merely to cooperate but to initiate this particular project. We're counting on their experience, their knowledge of the territory, to be able to come up with a -- hopefully, conclusive, but certainly a knowledge-based reapportionate plan, if you will, a redistricting plan that will succeed in

getting through the additional steps with, I hope, a minimum of fuss and bother, though you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Miller.

REP. MILLER (145th):

Thank you, Mr. Speaker.

Just want to thank the Representative Godfrey for his answers and thank you.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Mr. Speaker.

If I may, a question to the proponent.

SPEAKER DONOVAN:

Please proceed, sir.

REP. ALBERTS (50th):

Thank you, Mr. Speaker.

If I understand the amendment properly, the qualifications of probate court judges would change on a go-forward basis, and probate judges elected after January 5th of 2011 will have to be member of the Connecticut bar; is that not correct?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Mr. Speaker.

Through you, prospectively, candidates for probate judge will have to be attorneys. The exception will be those incumbent probate judges that are not attorneys. They can continue running for as long as the people are -- would be willing to vote for them under this new plan -- this new districting so they won't need it, but anyone running for the first time would have to be an attorney, admitted to the bar of the State of Connecticut. This is part of Governor Rell's proposal that she made back in the winter and which -- she was very, very strong about, and which we all agreed, helps very strongly in increasing the professionalism of the courts.

As I noted in bringing out this amendment, the courts aren't simply doing estates anymore. They're taking more and more complicated and much more emotional work that we keep handing them to do. Whether it's, you know, as I said, dealing with grandma in the nursing home, dealing with an adoption, dealing with a termination of parental rights, and more and more. There is -- there are more attorneys involved.

For example, one of the discussions we had over this when we were looking at the indigency part. DCF, of course, takes children into its custody and, in the course of time, decisions are made all according to law about that particular child and sometimes sadly that requires the termination of parental rights, obviously, a very emotional issue. The DCF, of course, is represented by its attorneys, who are paid by DCF, meanwhile the parents, who may also be indigent, too, may have to be provided with an attorney by the court in order to get though this particularly difficult and emotional case. But, when push comes to shove, it's the law, as we've passed it, that the court is going to have to -- have to adhere to.

So, again, we're trying to do that balance and one of the things we felt very strongly at the Governor's prompting that we needed to do, was professionalize the courts by requiring judges to be attorneys.

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Mr. Speaker.

If I understand -- I thank the gentleman for his answer -- if I understand that correctly, though, take it a step further. As I -- as I believe it to be in the amendment, if there's a break in service that existing judges have, that that may prohibit them from running again if they -- unless they have been admitted to the bar in the state; is that not correct?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Godfrey.

REP. GODFREY (110th):

Yes, that's correct, through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Mr. Speaker.

Have there been situations, have there been more issues with nonattorneys in terms of serving as probate court judges in the state of Connecticut? Have there been impediments to good service being provided by the nonattorneys?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Mr. Speaker.

Through you, I'm not going to suggest that any probate judge is not doing his or her job. I don't think that's -- that's really at case here. It's just that the Governor felt very strongly in proposing this bill -- this is her bill -- that in order to increase the professionalism of the probate courts that -- that going forward the judges should be attorneys.

The discussion around the table, several of the legislative members were the ones who raised the issue of grandfathering the existing judges, honoring their experience and their ability to move forward without that formal legal training and that went back and forth, quite frankly, for a couple of weeks before we finally resolved on the language there. And, indeed, we kept out one proposal that it had to be an attorney with ten-years experience. We just require it to be an attorney so this is a compromise trying to take all those vectors into account, through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Mr. Speaker.

And I thank the Deputy Speaker for his response. I respect the compromises. It must have been

difficult to achieve around the table, and I do respect the difficult situation that our probate court system is in. It reflects much of the state of affairs of the state of Connecticut, which is poor. I guess I share a concern that -- of the 117 probate court judges that are out there that the five judges in my district of five communities will be something different, something significantly different, and I would like to associate myself with the remarks of Representative Sawyer, and I think to some degree, Representative Spallone, in terms of their concern about the changes that we're looking at.

As I understand it there will be a number of different considerations that can be made in terms of looking at what the new districts will be, and we'll get a chance to look at those in October and vote it up or down. But the simple fact is that my district of five communities and some other district of two or more communities would have to come together most likely to create one new probate court system, and that's a huge swath of Windham County. I'm very concerned about that because we have done a good job, I think, in serving the folks in Windham County and serving the small towns.

I think the same issue is going to be reflected

in Northwestern Connecticut, when we look at the numbers and we look at the caseload so I will listen to the debate on the amendment that's before us and try to keep an open-minded air about it, but I do have that concern that we are maybe doing a disservice to the smaller communities of the state even while we are saving money in the aggregate.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Roy.

All right. Let's try Representative Brian O'Connor.

REP. O'CONNOR (35th):

Thank you, Mr. Speaker.

A question or two, through you, to the proponent of the bill.

SPEAKER DONOVAN:

Please proceed, sir.

REP. O'CONNOR (35th):

Thank you, Mr. Speaker.

Just have a couple questions regarding how you came to this point and how you came to the conclusions that you did.

In considering the full-time aspects of the

courts, you settled on 40 hours, I believe, that the court has to be open. Was there any consideration that the probate judge not have a private practice that they be a full-time judge and not have outside employment?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Godfrey.

REP. GODFREY (110th):

Through you, Mr. Speaker, there was some discussion very early on, but we didn't pursue that. Our concern was obviously to do this reform and -- and try and keep the overall system within its budget. Currently, probate judges make quite literally a fraction of the salary that a full-time Superior Court judge does. And, since we're in the mode of trying to save taxpayers and the state money and not increase it, at least at this point and understanding, yes, the pain and the suffering that has gotten us to today and I know the very difficulty of this decision that a lot of our colleagues will have to make, to not go down that path that's also contributed to the decision not to merge the Probate Courts into the Superior Courts, because we're trying to keep that elected user-friendly atmosphere around the courts.

I think this is a huge step forward, you know. In the future, yes, these issues will continue to crop up. The legislature is going to have to deal with them. And I just want to suggest maybe not today, maybe in the future.

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative O'Connor.

REP. O'CONNOR (35th):

Through you, Mr. Speaker, along those same lines and I believe you touched on it earlier in one of your answers, in relation to the conflict of interests. I guess why was that? I guess going along the lines of a full-time judge, having one judge going to the court of another judge and representing a client. It may impact that judge's decision just because of the personal relationships and it may not be -- I guess there could be a conflict of interests between the two parties. What was the deliberations like in that and not putting that into this bill?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Godfrey.

REP. GODFREY (110th):

Through you, Mr. Speaker, but there was some

discussion of that and there has been discussion of the appearance of the conflict of interests in those judges who are appointing conservators and guardians who may also, for example, be a campaign contributor.

I have asked the Judiciary Committee to at least begin to during this interim to take a look at the appointment of a guardians and conservators to see if there is a lot of conflict, a little bit of conflict, what the measure should be if -- if there is some kind of a report that's available that shows that and that as we go forward, we're going to have to wrestle with that.

Representative Spallone talked about how we fund the campaigns of probate judges. I think that is something that legislature should also debate at some future time. They are elected state officials. The same as we are, the same as the constitutional officers are and -- and that also may have to be debated in the context of these issues. I'm just suggesting we need to take this very, very major step toward -- toward reform and for modernization today and then continue to deal with those issues in the future.

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative O'Connor.

REP. O'CONNOR (35th):

Thank you, Mr. Speaker.

In deciding you mentioned earlier that the Governor had tried to increase the professionalism within the Probate Court system by having only attorneys, those who are registered under the bar or licensed with the bar in the state of Connecticut. Was there a higher incidence of complaints for lay judges as opposed to attorney judges? And do you have any numbers on that within, let's say, a five-year period, a ten-year period where the general populace has suffered due to lay judges.

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Godfrey.

REP. GODFREY (110th):

Through you, Mr. Speaker, no, I have no reports. I have no -- I don't even have anecdotes. Again, this was a -- was a critical component of the Governor's proposal that she was very persuasive in making the argument that going forward as we see the increasing complexity of cases, the increasing number of cases, with the consolidations of the court, more and more we need professionalism and, especially, if in the

future, as we begin to look, as you carefully noted at should judges be full-time in this bill. For the first time we're actually requiring them to do 20 hours a week in the court if they want to continue to qualify for their state benefits, their health care, that kind of thing to, again, begin the process of taking those steps forward into increased professionalism. Is there more to do? Is there more we should do? Yes. Are we ready to do that today? I don't think so.

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative O'Connor.

REP. O'CONNOR (35th):

Thank you, Mr. Speaker.

And how the courts are going to operate or how their going to be comprised in the future after 2011, are there opportunities to shape a court, for instance, it would basically take on a circuit court nature, where, let's say, down in my neck of the woods, where Westbrook would be host of the court for two days a week, the town of Clinton maybe three days a week, through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Godfrey.

REP. GODFREY (110th):

Through you, Mr. Speaker, while we're not envisioning that in this particular amendment. As we do go down the road, that's certainly an item future legislators can consider. It's interesting the idea of a circuit, riding a circuit, we did talk about that briefly. But what we found out as we got the expert advice of the probate court administrator, in particular, is that the current practice, what judges actually do, they'll go to your house. They'll go to the nursing home. They'll go to where one of the parties, who physically can't -- readily get into the courtroom are and take the case there. It's a very compassionate system. It's a very user-friendly system. I think that's actually the best example of the compassion of the judges and how careful they are in bringing the court, literally, to the place where one of the parties is not particularly ambulatory. And we certainly do not want to suppress that notion that idea, that practice, at all, and continue to allow that.

So there is some judicial discretion, obviously, again, though, we want to make sure it all stays within the budgetary constraints that we're so very concerned about.

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative O'Connor.

REP. O'CONNOR (35th):

Through you, Mr. Speaker, then just to kind of hone in on it just a little bit further. Is there any thing in this bill to prohibit that if the judges or the towns, let's say, there are five towns comprised, can they make up their own plan, basically, to -- basically comprise and conduct the circuit court within their region?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Godfrey.

REP. GODFREY (110th):

Through you, Mr. Speaker, there is nothing in here that would prohibit that.

SPEAKER DONOVAN:

Representative O'Connor.

REP. O'CONNOR (35th):

Thank you, Mr. Speaker.

Just one final question along the same lines, is -- if one town were to have a court housed within their town or municipality would they, within this composition, be able to move that court a year from

now? Is there any prohibitions from them basically saying, okay, in 2011, the court will be housed in the town of Clinton; in 2012, the court will be housed in the town of Westbrook, through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Godfrey.

REP. GODFREY (110th):

Through you, Mr. Speaker, there'll obviously be some local budgetary concerns, and the decision would be the probate administrators' as it pretty much has been where we've done mergers. But the practice has been to be as flexible as possible and trying to keep any of the costs associated with the local contributions as low as possible, and I would expect that to continue in the future, through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative O'Connor.

REP. O'CONNOR (35th):

thank you, Mr. Speaker.

And I know I just said that was my last question. I just -- he just brought to mind one other if I could, through you, Mr. Speaker. As far as the cost, was there any deliberations to remove some of the duties or requirements that we've put on those probate

courts system to kind of alleviate some of the stresses that are being put on the system that we've added over the years in order to -- to, again, accommodate, make it more accessible, as well as more efficient?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Godfrey.

REP. GODFREY (110th):

Through you, Mr. Speaker, there's a lot of discussion about the services that the courts provided. And when we went through them, we came rapidly and early to the realization, all of these things are done and done in the probate courts because of that user-friendly atmosphere. When -- you know -- when you go to a civil -- a civil trial in Superior Court, you're talking years -- three, four years sometimes when you get through the process.

Probate cases are decided much more readily, much more quickly, and we didn't want to lose that. And when we look -- and there's an association with -- with the tasks we have assigned to the probate court. They're very family-oriented. We're dealing with, you know, the loss of a loved one. They're dealing with an adoption. They're dealing with a conservatorship

for a relative in a nursing home. And there's -- you know, there's kind of a commonality of interest. They're almost a family court in the sense of what they deal with and moving that user-friendly case from the Probate Court and putting it them somewhere else just seems to be, to us, to be counterproductive, through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative O'Connor.

REP. O'CONNOR (35th):

Thank you, Mr. Speaker.

I would just have to say that I think if this amendment is passed and the bill is passed, it's kind of a sad day, you know, for Connecticut. I think what's sad about it and disappointing about it is we're here because of fiscal mismanagement and what we have foisted upon our Probate Court system, and I think while I understand that the parties that put this together, they've done it in good faith. I think they've done the best they've could, but I think we could have prevented where we are, and, just quickly, I guess, I wish we could have done more.

In the future, maybe we can revisit this, but it's unlikely. And I guess, at this point in time, I'll be opposing the amendment and opposing the final

bill if it is to pass.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you Representative.

Representative Douglas McCrory.

REP. MCCRORY (7TH):

Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of this legislation. I was one of the members of the committee that spent weeks and weeks working on this, and I rise with a smile on my face because so often I'm told that whenever you speak on -- speak at a chamber, you always look angry. But I'm not angry right now. I'm smiling because this is a great piece of legislation. I thank all my colleagues for their support. As we uncovered this -- this piece of legislation, we realized that in the state of Connecticut, we have a 117 probate judges. Unfortunately, I'm one of those people that do believe in diversity and out of the 117 probate judges although they are elected, only five are women. And I thought that was very disappointing.

Of course, we have a lot of qualified women in the state of Connecticut, who I feel could be probate judges, and also we recognize that we have no people

of no -- no diversity, no people of color judges in our state of Connecticut. But, however, we could put a mechanism in place so we can start developing young people who want -- may one day want to become a probate judge. We placed that in this piece of legislation and I think all our citizens of the state of Connecticut will benefit from this in the future. So, with that said, I ask my colleagues to support this measure. Thank you very much.

SPEAKER DONOVAN:

Thank you, Representative McCrory.

Remark further on the amendment before us? Remark further on the amendment before us? If not, let me try your minds.

All those in favor of the amendment, please signify by saying aye.

All those opposed nay.

The ayes have it. The amendment is adopted.

Remark further on the bill as the amended?

Representative Lyddy.

REP. LYDDY (106th):

Thank you, Mr. Speaker.

Mr. Speaker, due to retirements that are scheduled to happen in the very near future, there are districts that are going to lose their judge well

before the commencement of the consolidation of the courts. In the spirit of fairness to those districts, I'm prepared to offer an amendment to the amended bill.

Mr. Speaker, the Clerk has Amendment LCO 7756, and I ask permission to summarize.

SPEAKER DONOVAN:

Will the Clerk please call LCO 7756, which will be designated House Amendment Schedule B.

THE CLERK:

LCO Number 7756, House B, offered by Representative Hovey, Lyddy, and Senator McKinney.

SPEAKER DONOVAN:

The Representative seeks leave of the chamber summarize the amendment. Is there objection to summarization? Hearing none, Representative Lyddy, may proceed with summarization.

REP. LYDDY (106th):

Thank you, Mr. Speaker.

Mr. Speaker, this amendment simply strikes Section 23 of the amended bill to allow the Governor to call for a special election for those districts that will be without a judge before the January 2011 consolidation date.

I move adoption.

SPEAKER DONOVAN:

Request before the chamber is adoption of House Amendment Schedule B.

Will you remark on the amendment? Remark on the amendment.

Representative Hovey.

REP. HOVEY (112th):

Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of this amendment. It has little impact on the actual consolidation and, in fact, does not impact on consolidation whatsoever. But it does impact on one of my communities which has a judge who most likely will be retiring in September and the community would be without their own probate judge from that point on, which is about a year and a half. So it does allow for a special election, and, in this particular situation, it could be rolled into the municipal election in November, and I appreciate the House support.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Mr. Speaker.

Mr. Speaker, I consider this a friendly amendment

and would urge all of my colleagues to vote for it.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Will you remark further on the amendment? Remark further on House Amendment Schedule B? If not, let me try your minds.

All those in favor of the amendment, please signify by saying aye.

All those opposed nay.

The ayes have it. The amendment is adopted.

Remark further the bill as amended?

Representative Miner.

REP. MINER (66th):

Thank you, Mr. Speaker.

Mr. Speaker, I'd like to speak about the section of the bill that would restrict nonattorneys from running for this position after, I think it's 2011. Mr. Speaker, I've had the pleasure of knowing a number of probate judges in the community that I live in and they serve districts in and around the 66th District. They go back as far as Judge Farmer, Endicott, Keagan, Bunnel and, currently, Blake, Republicans and Democrats all. To my knowledge, only one was an attorney.

I think if you ask people in the community today about Judge Farmer, at no time would anyone suggest to you that he was unqualified to deal with any matter and that none of the matters that face the court today would be too complex. So while I do support the concept of consolidation and I have supported many proposals within the district advocating for legislation, work to assist people in putting those consolidations together, that is a part of the bill that I have voiced some concern about and a reason that I would not be supporting the measure today.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Remark further on the bill as amended? Remark further?

Representative Shawn Johnston.

REP. JOHNSTON (51st):

Thank you, Mr. Speaker.

Mr. Speaker, a question through you, to the proponent of the bill.

SPEAKER DONOVAN:

Please proceed, sir.

REP. JOHNSTON (51st):

Mr. Speaker on -- in Section 22, there's a line

that would allow the new configuration to take into consideration geographical accessibility of the probate court to residents of the proposed probate court district. It's on lines 825 through 827. And coming from a small geographically challenged town, which if we want to merge with the district to our east, we'd be merging into Rhode Island, and if we wanted to merge with the district north of us, we'd be merging into Massachusetts. I'm looking at that term, which is pretty subjective. And, once this bill is passed, a group of this new commission is going to sit around and consider what they call geographically challenged. And if I could have from you maybe some discussion of this language and what their thoughts might be as they put this into this bill.

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Godfrey.

REP. GODFREY (110th):

Through you, Mr. Speaker, gladly, Representative Johnston.

We were quite aware that our state does have four corners and does have boundaries, and we're going to have to deal with that. You don't know the long amount of discussion we had over the fact Greenwich is

actually not adjacent to anything but Stamford and what's going to happen. So we tried to build in sufficient flexibility for the probate assembly, the probate judges, that are doing the first pass at the map and, as I said, hopefully, the last one -- to have the flexibility to make those kinds of decisions as you've outlined.

You know, in one sense, the language you specifically refer to is kind of, you know, bureaucratese or legalese for, yeah, you got to figure out if there's a road from, you know, all of the towns down to where the courthouse is. It's along those very practical land of steady habits kind of ideas that we're trying to infuse in this, even though, obviously, that concept is difficult to frame legally. So we're -- that and the very last clause, starting on line 840, and any other criteria deemed appropriate and necessary by the probate redistricting commission. We're trying to provide the practical flexibility to deal exactly with problems, like your town, of being bordered by two other states. We're not proposing any merger with Massachusetts or Rhode Island. They have their own problems. We'll just take care of ours.

Though you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Johnston.

REP. JOHNSTON (51st):

I thank the gentleman for his response.

Mr. Speaker, echoing some of the comments that my good friend Representative Miner made. I am troubled by the fact that we're not going to allow nonattorneys to be probate judges. I understand we're going to grandfather those, and I think that's a fair and good provision to put in, but two of my three towns, now presently, are served by judges of probate that aren't attorneys, and I know we've thrown out the term quite a bit in discussion of this bill to professionalize the probate system. Observing these two judges and others before them that were nonattorneys, certainly, I would never come up with any other description of their activities and their manner as anything other than incredibly professional.

My trepidation in supporting this -- and I haven't got there and I don't think I will -- is that my experience representing a small town is almost in every single circumstance that I've seen where we've lost a service that we were able to provide locally and take that service a little further away from local control. I haven't seen where that service has become more efficient. I haven't seen where that service has

become more responsive, and I haven't seen where that service has become more economical.

My experience -- and it may be different in other areas -- but my experience has been that the more local control we can have, the better product, quite frankly that we have. I look at a regional office that we have, that -- that isn't provided locally for a lot of our towns. It's a regional branch office of the Department of Motor Vehicles. It sits in a parking lot in Putnam. People wait outside to get into this office. That's a regional approach that in the state maybe we look and say is economical. It makes sense. It saves money. I was hopeful that maybe the final product might have had some outs for small town community if they wish to pick up some of the cost of that probate court to make it optional and if, for some reason, they were able to reduce expenses to make their court self-sufficient, that they might be able to continue on in the aspect that they have.

I know that after this bill is passed and signed by the Governor that we get one more crack at it, but I would suggest to someone here if you're considering that maybe that will be your vote, to vote this down. You know, I can't see a possibility where once this process happens and it takes place and they come back

with the consolidation plan, that there's any possibility in either chamber that you're going to have a majority vote to reject that. You may have the opportunity to come back and vote no because you felt your town wasn't treated well. You're not happy with the consolidation but to think logically and to think that you're going to be one of 76 people in this chamber that's going to vote that way and override this, I suggest isn't going to happen. So tonight is the opportunity in this House to decide upon this. If you think its a good idea, certainly move forward with it. But if you're not convinced that a plan that isn't going to be crafted by us, only approved by us, as we had an approval before us the other night, we couldn't change it. We couldn't amend it. We -- basically you have it here, you vote it up or down. I would suggest you take that into consideration. And I thank the good representative and the other people who worked on this bill. It is a monumental task to do what you did and to try to balance the needs across the state. Quite frankly, as one of the smaller towns at the end of the day, I don't agree with your conclusions. I don't belittle the work that you did and the difficulties of coming to that in the hours and hours that you put in to try to craft something

that -- that does meet the needs of the state and, clearly, meets the needs of what is a financial crisis of the system.

I was hopeful that maybe we'd give more flexibility on the financial sides for towns to be willing to pay part of that price to maintain their small court.

But, through you, Mr. Speaker, I appreciate the opportunity to comment on this.

SPEAKER DONOVAN:

Thank you, Representative.

Remark further on the bill as amended? Will you mark further on the bill as amended?

If not, staff and guests, come to well of the House. Members take their seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll call, members to the chamber. The House is voting by roll call, members to the chamber, please.

SPEAKER DONOVAN:

Have all the members voted? Have all the members voted?

If all the members voted, please check the roll call board to make sure your votes are properly cast.

If all members have voted, the machine will be locked and the Clerk will take a tally.

Will the Clerk please announce the tally?

THE CLERK:

House Bill 6385 is amended by House Amendment Schedules A and B.

Total Number of Voting	145
Necessary for Passage	73
Those voting Yea	126
Those voting Nay	19
Those absent and not voting	6

SPEAKER DONOVAN:

Bill as amended is passed.

Representative Merrill.

REP. MERRILL (54th):

Mr. Speaker, yes, I move for the immediate transmittal of the last item to the Senate.

SPEAKER DONOVAN:

The question is on immediate transmittal of the last item to the Senate.

Is there objection? Any objection?

Hearing none, the item is transmitted immediately to the Senate.

Is there business on the Clerk's desk.

THE CLERK:

JOINT
STANDING
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HEARINGS

APPROPRIATIONS
PART 20
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2009

CAROLYN SIGNORELLI: I think I'm next week.

SENATOR HANDLEY: In March, in early March. Okay.

CAROLYN SIGNORELLI: That's fine with me.

SENATOR HANDLEY: Thanks, Representative Hamm.

REP. HAMM: Thank you very much.

SENATOR HANDLEY: Are there further questions? Thank you, very much.

CAROLYN SIGNORELLI: Thank you.

SENATOR HANDLEY: Our last people are here from the Probate Court. I might mention this is an unusual appearance by the Probate Court but because of some changes, you requested an opportunity to speak to us -- to our committee.

HB6027
HB6385

JUDGE PAUL KNIERIM: Yes, thank you very much, Senator Handley, members of the committee.

I'm Paul Knierim, and I'm probate court administrator and also serve as judge of probate in Simsbury.

We have submitted written testimony to the subcommittee, but I'll summarize and take any questions that you have. I especially appreciate the opportunity to address the subcommittee. I know that is out of the ordinary, but we find ourselves in critical times in the history of Connecticut's probate courts.

To get right to the point, the probate system requires general funds to support to avert bankruptcy in the next two years. Based on our current revenue projection, the system will

need $4 million in additional funding in fiscal year 2010 and 8.4 million in fiscal year in 2011 simply to remain solvent. Those figures are in addition to our current 2 and a half million dollar appropriation for the children's courts and the $1.1 million appropriated through the Children's Trust Fund, for the Kinship and Respite Funds.

There're two areas in which we are seeking the additional appropriation: firstly, in the costs of indigent expenses, which I will go into a bit more in a moment; and, secondly, the cost of retiree health insurance.

There are two proposals about the probate system and fundamental restructuring of it that are working their way through the General Assembly this year. First, the House Bill 6027, which embodies a strategic plan that the probate judges, in my office, have jointly developed; and the second, Governor's Bill 6385, part of her budget proposal. I'll address each of those in an overview fashion in just a moment. But there are two key issues that I'd like to point out, at this point, about those proposals and how they relate to the budget.

First, neither of the proposals, even if implemented, would have impact until January of 2011, because the probate judges is currently serving in office are elected to four-year terms and next term doesn't begin until then.

And, secondly, while the probate system can clearly be made more efficient than it is presently, it's my view that self-sufficiency for the probate system is neither practical nor appropriate as a goal.

Now, if I can just take a moment and offer some

background on the finances of the system and how we got to this point, the Connecticut probate courts are largely self-funded. Over 90 percent of our revenue is generated by the probate fees that the courts collect, but the system has been operating with a growing budget deficit since fiscal year 2005. We've been able to keep solvent despite these deficits by drawing down on the probate administration fund, but, with current projections, we expect that fund to be exhausted entirely early in calendar year 2010.

There are several causes of this deficit situation, but I'd really to focus on three for our discussion today. First, the caseload of the probate courts has been changing over the years, and there is a chart attached to my testimony that shows how the number of matters involving estates and trusts has declined over time, while at the same time the social service work of the probate courts, matters involving children, mental health issues, developmental disabilities, and so forth, has been on the increase. That's important to our finances because the engine of revenue for the probate courts is from the fees on decedent estates. The other cases don't generate nearly as much revenue but do consume judicial resources.

The second major factor in our situation is the dramatic increase in indigent expenses at the same time that the support -- that the State has stopped supporting that expense for us. Indigent expenses include things, such as, providing attorneys for individuals who can't pay for counsel themselves, also for payment of services of conservators, and related matters. Most of these are constitutional obligations of the State of Connecticut that would -- would be in place whether or not the probate system was incurring the expense.

To give you a sense, in the current year, the cost for indigent expense is $4.5 million and the appropriation for that item is $25,000. As recently as 2002, the State was appropriating in a much larger share of that expense.

The last thing I want to point out about how we got here, is to just refer to the fact that in 2002, the state transferred $15 million from the probate administration funds to the general fund. There was another $5 million transfer back in 1991. And I point that out mainly to say we wouldn't be here today if not for those transfers but also to point out that self-sufficiency would be an elusive goal considering that, at times, the probate system has been used to support general fund activities.

Also, I need to emphasize that the numbers that I'm presenting to you today are significantly worse than some of the discussions that I've had with members of the committee recently, and that's because we have had to revise our revenue projections downward. As I said, the decedents' estates make up the largest portion of the system's revenue, and, using the reduced asset values published by OPM, we're anticipating about a 4 and a half percent decline in revenues for the next two calendar years. So I have now factored those in, in the figures that I'm giving you today.

Proposed solutions, as I mentioned earlier, the Governor has a proposal and the judges brought forth a proposal, also, in the form of a strategic plan. And those two proposals have a lot of similarities but also some differences. And I'd like to just point out briefly what those are, three things mainly.

First, both of the proposals would centralize the accounting function of the courts. That's presently handled independently by 117 courts, and we are aiming to enhance the uniformity of the system and increase efficiency, as well as establish in cost controls by putting in place a budget mechanism that would deal with authorized staffing levels and the compensation plan for the courts in advance.

Second, both of the proposals would restructure the way we compensate judges. While the system currently basis compensation principally on the revenue of the court, both proposals would shift to a system based on population and weight of workload to associate judge's compensation with actual work performed. That proposal in the strategic plan would account for a little better than half a million dollars in savings in the first year of implementation.

The third common element of the proposals is that both would seek to reduce the number of courts from the current 117. The approaches are rather different, though. The strategic plan from the judges was -- is asking the legislature to establish a process to facilitate regional planning to help municipalities develop plans for consolidation that makes sense for there particulars of their community. The plan would ask that -- that planning process to be done by November 15th of this year so that consolidations could be implemented before the next election cycle for judges.

The Governor's proposal, in contrast, would eliminate 81 courts, leaving a system of 36 courts that share borders with the senate districts. That third element, the consolidation, is -- is the area where the two proposals differ most significantly, and I'd

like to just express two areas of concern that we have with the Governor's proposal.

The first is that we're concerned that the 36-court approach threatens to undermine the close connection between the probate courts and the communities that they serve. Senate districts -- excuse me -- Senate districts would divide many municipalities, including most of the large cities of the state, into two or more probate courts; and, in more rural areas of the state, probate districts would become geographically huge.

The second area of concern is that we don't see that the Governor's proposal can achieve the projected $9 million in savings. And I'll just cite a few reasons for this concern. First, consolidation of 81 courts might very well be counterproductive from a facility standpoint. Probate courts are presently housed in city and town halls around the state, and municipalities provide us with that space on a rent-free basis. We've analyzed existing court facilities, and, in rough numbers, we're projecting that accommodating larger court operations that would be associated with the 36-court plan would require considerable commercial -- leasing a commercial space rather than being able to put courts into city and town halls. And we're projecting, conservatively, a build-out cost to do that of a million five and then rent in the neighborhood of a million three annually. That's a municipal expense, but, nonetheless, it's out-of-pocket whereas, by and large, cities and towns aren't out of pocket for that presently.

A second thing I noticed, the Governor's plan assumes a 20 percent reduction in staff expense despite the fact that are workload would remain

the same even if we had fewer courts. And the largest share of the projected savings in the Governor's plan is from reduced compensation and benefits for judges and staff. And there's a unique aspect to the probate system that I need to point out, which is that, unlike other state agencies, the probate courts pay for the expense of retiree health insurance from operating funds. And, given that most of our population is vested in the pension plan, eliminating present health insurance for active employees doesn't achieve savings when we then have to pay for them as retirees.

Taking these factors into consideration, our analysis of the total cost savings that could be achieved from the Governor's plan is less than $2 million a year. And I'll reemphasize the point that none of that can be achieved until January of 2011.

The last point I'd like to touch on is -- is just to emphasize the importance of the work of the probate courts to Connecticut citizens. I think it's common that the courts are associated with the state work our traditional area of jurisdiction. But, increasingly, the courts have been a critical element in the delivery of social services, children's matters, mental health, and so forth.

The legislature has assigned these responsibilities to the probate courts, I think, because it is a forum that is especially well-suited to handle sensitive family issues of that nature. We pride ourselves on resolving cases promptly, and I think the typical case moves through the probate system quite a bit more promptly than in the superior court.

There's another key point here, which is that

the probate courts are very cost-effective in delivering these services. And I'll just briefly cite two examples that I think prove the point. One example is the Regional Children's Courts. These courts are empowering families to help themselves. We are appointing family members to serve as guardian when a parent is unable to do so. Children who aren't -- wouldn't be in the probate system and have the benefit of family caregivers might very well be in the foster care system at much greater expense to the state.

Another example is Melissa's Project. This is a partnership between the probate courts and the Department of Mental Health and Addiction Services. It's designed to provide conservators serving individuals with mental illness with a support network to enable those individuals to live in the community, and it shows dramatic results in keeping individuals out of prison and out of hospitals at obvious great savings to the state.

So, considering that the public courts are such an important and vital part of the state's safety net for vulnerable citizens, I'll reemphasize that point one more time, which I don't think self-sufficiency ought to be goal for this system. In the past, when the primary focus of the courts was on estate and trust work that system certainly made sense, but, given our responsibility for a variety of social service matters today, when we think of the investment on the part of the state makes perfect sense and, further, that investment can help us undertake the restructuring that will make the system more efficient going forward. Thank you very much for your consideration.

SENATOR HANDLEY: Thank you.

Are there questions? Representative Kirkley-Bey.

REP. KIRKLEY-BEY: Good afternoon.

JUDGE PAUL KNIERIM: Good afternoon, Representative.

REP. KIRKLEY-BEY: I have several questions. Are all of the individuals who are over the probate court, are they all attorneys?

JUDGE PAUL KNIERIM: No, they are not. Of the 117 judges presently serving, I believe, the number is 25 who are not attorneys.

REP. KIRKLEY-BEY: Okay. I believe there's a general -- I believe that many of us feel that 117 courts are too much. I think the Governor took it down to 37, 38 in that range. Are you saying that you think 81 is the appropriate number?

JUDGE PAUL KNIERIM: No. I'm sorry. My reference to 81 -- I caused that confusion. My reference to 81 was the Governor's plan would eliminate 81 of the 117 courts.

REP. KIRKLEY-BEY: Oh, so what do you feel is a doable number?

JUDGE PAUL KNIERIM: I'm reluctant to cite a specific number but -- but --

REP. KIRKLEY-BEY: Give a range -- give a range, 60 to 70, 80 to 90, (inaudible.) Go ahead.

JUDGE PAUL KNIERIM: If I had to -- if you forced me to do it, I'd say probably something in the 50 to 70 range --

REP. KIRKLEY-BEY: Fifty to 70.

JUDGE PAUL KNIERIM: -- makes a lot of sense, avoiding the facilities issues that I discussed and keeping in place a system that is still tied to the community.

I do want to emphasize that the judges' strategic plan, which I very much endorse and advocate, hoped to promote a process that would enable communities to decide what makes sense for them. So, that we'd have probate districts redefined but that are sensible and address facilities' concerns and work for the communities, and I do think that would be the best approach to getting it.

REP. KIRKLEY-BEY: If the Governor is trying to save money for the next biennial, would whatever you're recommending -- and I apologize -- I came in late - would this be also something that would be available -- effective July 1 because that's what, I believe, is being looked for -- being looked at?

JUDGE PAUL KNIERIM: January of 2011 is the first point at which either the strategic plan or the Governor's proposal could be implemented due to the fact that judges are serving four-year terms so the consolidation that we're talking about would have to await implementation until 2011. And that's -- that's why the appropriation request numbers are so high because we can't really achieve the savings for the better part of this biennial budget.

REP. KIRKLEY-BEY: And just one other. I've been told that Hartford handles as many cases as the 40 smallest towns in the state and that most of the urban areas would fit that same formula. Is that true?

JUDGE PAUL KNIERIM: Without verifying specific statistics, it is most certainly the case that

by our workload measures, just to take an example, Hartford has a weighted workload of approximately 13,000. If you were to compare it to my court, my court is in Simsbury, with a weighted workload of about 1100. It gives you a feel for and how significant the difference is between some of the courts.

REP. MCCRORY: Anyone else? Yes, Representative Hamm.

REP. HAMM: Welcome. I've been on the judiciary committee years as we have batted back and forth what to do with probate and so you're going to have your hands full. Do both of these proposals, Governor's and judges' require that all the judges will be lawyers or just the Governor's?

JUDGE PAUL KNIERIM: Just the Governor's.

REP. HAMM: And why is that?

JUDGE PAUL KNIERIM: I appreciate the question very much. The topic of whether there should be a requirement for judges to be attorneys is one that the Probate Assembly our statewide association debated at great length in developing the strategic plan. And the concise answer to your question as to why it's not in the strategic plan is that it is a very divisive issue within the Probate Assembly.

As you can imagine, we have incumbent nonattorney judges, many of whom have -- have served very well and bring a great deal experience to their jobs. And the goal of the assembly and my office in developing this plan was to have as much unity as we possibly could behind a plan that would bring a solid future for the courts and because that issue was so controversial and would have been in the way of

the Probate Assembly having a strong consensus behind the plan, we took it off the table recognizing, of course, that the legislature might well wish to debate it further.

REP. HAMM: The only other thing I want to suggest is we knew the day was coming when the general fund was going to have bail out the probate court. And you now need a sizable amount of money in both '09 and '10. How do you address the impression that many of my colleagues have that it is the Probate Assembly that is preventing both consolidation and the resolution of the fiscal issues? Because I've talked to many of my colleagues who believe that the Probate Assembly has been able to, rightly or wrongly, have a few judges, who are opposed to change, have the dominate voice to the detriment of the whole and that brings us to where we are now?

JUDGE PAUL KNIERIM: I appreciate the question very much and without the dwelling on the past, I think I put my emphasis on where we stand now which is that the overwhelming majority of the probate judges rolled up their sleeves and worked on a strategic plan that has very significant impacts on many them, personally, but -- but also puts in, for your consideration, a very reasonable set of proposals to address the financial problems and to strengthen the professionalism of the system.

So, at this point in history, I think the Probate Assembly is very much a force on the positive side seeking to bring about a reasonable resolution of this, and that's partly why I began my testimony by emphasizing that there was a lot of common ground between the Governor's proposal and the strategic plan. Now, obviously, there's some fundamental

differences. But, by all means, I, as a administrator, and I think I can speak on behalf of the vast majority of judges within the probate assembly, are -- are fully ready to discuss how we resolve any of differences between the plans and bring about an appropriate resolution at this stage.

REP. HAMM: Last question. If we were not to go the Governor's route and not craft our own but were, in fact, to adopt the strategic plan and allowed municipalities, town by town, or area by area, to make those consolidation decisions, how long do you think that will take?

JUDGE PAUL KNIERIM: Well --

REP. HAMM: I mean it feels like we're just kicking the can down the road, again, and if we were to come up with the funding, that there -- the message would be that we would just protract the process of consolidation and so I just wonder if you could speak to that.

JUDGE PAUL KNIERIM: Most certainly. Point very well taken. The proposal contained in the strategic plan provides for a pretty short fuse on the process. It establishes a deadline or recommends a deadline of November 15 of 2009 for that whole process to be done because we have in mind the fact that the nominating process for the next election cycle begins fairly early in 2010, about a year from now. And so we'd have to have legislative proposals for your consideration at the very beginning of your session next year.

I might say that the -- the way the legislature goes about setting up that process would be -- sends very important signals as to how the process needs to be accomplished and what its outcome needs to be. In the strategic plan,

it's characterized and certainly is a voluntary approach with some financial incentives for towns, as well as judges and court staff, but certainly would be reasonable for consideration for the General Assembly to be thinking about more specifics to imbed in it. Thank you.

REP. MCCRORY: Thank you.

Any other questions? I just have one question. It's probably been answered. How many states allow for individuals to be judges, however, not obtaining -- probate judges without being an attorney?

JUDGE PAUL KNIERIM: I'm sorry that I don't know the answer to that. We can do a little bit of research and get you the answer probably through the National Center for State Courts. We're not unique in that there are several states, but I'll -- we'll try to get that to you within next couple of days.

REP. MCCRORY: Thank you. One more question.

REP. HAMM: Could you bring to the --

REP. MCCRORY: -- working group.

REP. HAMM: -- working group -- thank you -- to the working group, the volume for all the offices, the number of cases

JUDGE PAUL KNIERIM: You mean the workload figures?

REP. HAMM: Yes, the workload figures. Okay?

JUDGE PAUL KNIERIM: Yes, might I note that. At present, I don't think we're scheduled for working group.

REP. HAMM: Well, then you can -- you can give it to

the members here and that would help us.

JUDGE PAUL KNIERIM: Okay.

REP. HAMM: Okay.

JUDGE PAUL KNIERIM: Certainly.

REP. HAMM: Thank you.

REP. MCCRORY: And, well, you're relatively new. Correct?

JUDGE PAUL KNIERIM: Myself, in the office, I started on October 1st.

REP. MCCRORY: Okay, that's good enough.

JUDGE PAUL KNIERIM: Thank you very much.

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REP. FOX: That's more notice than I usually get, so thank you. (Laughter)

We'll start with the public. (inaudible) I do know the first name on the state official list so we can start with that. The first hour will be meant towards the state officials and then after that we will go into members of the public. The first public official was Paul Knierim, Probate Court Administrator.

JUDGE KNIERIM: Good morning. Good morning, Representative Fox, Representative Lawlor, Senator McDonald, members of the committee. Thank you very much for the opportunity to be here with you today, and thank you also for dedicating a public hearing to critical probate issues that are facing our system this year. I have submitted written testimony on all of the pertinent probate legislation but I would like to focus my remarks this morning on Bills 6027 and 6385, which are the two central probate proposals that would comprehensively restructure the system. To be direct, this is a sink or swim legislative session for the probate courts. The system is steadily moving towards bankruptcy. The pace of that decline doubtless will be exacerbated in the coming months as the impact of declining asset values impairs our probate fee revenue as well. So unless prompt action is taken now, the probate system will be insolvent and unable to meet its financial obligations during the coming fiscal year. The ultimate question is should the system be saved and my answer to that is a resounding "yes". It is a user-friendly court that is uniquely well suited to handle the sensitive family matters that the general assembly has assigned to it over the years. Probate courts have a demonstrated capability to handle pro se matters and typically resolve

cases more quickly and at less expense to the parties than is possible in more formal proceedings. The probate courts, without doubt, can be made more efficient, more uniform and stronger professionally and you have legislation before you now that can accomplish those goals.

Bill 6027 embodies the strategic plan for the probate courts and it represents the joint efforts of the Probate Assembly in my office. 6385 is the governor's plan to restructure the system. Now these two bills share several similarities and also some key differences but I think they have framed the debate on how best to modernize the probate system while maintaining its core and essential qualities.

Very briefly, before going into the details of those two plans, I would like to offer just a bit of background on our current financial situation and how we got here. In the current fiscal year, our deficit is $4.4 million and it is projected to grow to $7 million in the next year and $8.4 million in the year following. With current projections, we expect the Probate Administration Fund on which we've relied to cover that deficit to be exhausted by the end of this calendar year. Causes of that are several, but there are three things that I'd briefly focus on. The first is that the case load of the probate courts has been changing. The number of estate and trust cases has been on the decline, which social service matters involving children, mental health issues, the elderly and so forth have been on the rise. The system has been very good about responding to changing societal need and I am proud to represent a system that has done so. For example, the Regional Children's Courts, which this body authorized, are enabling family members to assist in the raising of children

when a parent is unable to do so. It is a very cost-effective system because those children doubtless would be in the foster care system at greater expense to the state. Similarly, the Melissa's Project assists individuals with mental illness to be able to continue living in the community and it is a program that has shown great results in reducing expensive hospitalizations, arrests and incarcerations. The second cause of the system's financial difficulties is very much related to that first item, and it's our indigent expenses, the cost of engaging and compensating attorneys, physicians, and conservators for individuals who are unable to pay. It has all been very much on the rise. Historically, the General Assembly appropriated funds that covered some, if not all, of the probate system's expense, but in essence that support was discontinued in 2003. Our current expense is $4.5 million a year. A third element that I would mention is the transfer of funds from time to time from the Probate Administration Fund to the General Fund, a total of $20 million once in 1991 and another time in 2002.

Now turning to the solutions to the problems that we now face; I'd like to highlight some similarities and differences between the governor's plan and the judge's strategic plan, and although I've mentioned several in my testimony, there are four things I'd like to put my principle focus on; two areas of total agreement, two where there is some agreement and some disagreement. Central financing is a proposal to consolidate the accounting and budgeting activities in probate administration. Both the governor's plan and the strategic plan would do this, thereby increasing the efficiency of this system and implementing valuable cost controls. Both plans also would restructure judicial compensation, moving away

from a system based on court revenue to a system instead based on population and workload. Now both plans also call for core consolidation. The strategic plan puts its focus on voluntary consolidation and ask the legislature to implement a regional planning process by which committees would facilitate discussions among municipalities and figure out consolidations that make sense for them. Some financial incentives would aim to support that project and hopefully improve the probability of significant consolidations.

The governor's proposal, as you know, would consolidate the system to 36 courts with boundaries along the senate district lines. A couple of concerns on that front -- we are concerned that consolidation of that magnitude would be counterproductive from a facilities standpoint. Probate courts presently are housed mostly in city and town halls. The large sized courts that would be associated with a consolidation of that nature would likely obligate municipalities to lease commercial space to accommodate the courts at considerable expense to them. Some of the senate districts are quite geographically large, threaten to undermine the connection the probate courts have with their communities and, of course, some senate districts also divide cities and towns into multiple jurisdictions. Without question, core consolidation needs to be part of the solution. It can reduce expenses, it can improve the proficiency and professionalism of the courts, but we would urge that if the General Assembly approaches the topic, it's especially sensitive to the need for geographic accessibility considering that many users of the courts are elderly and disabled and also seek to locate regional courts with reference to communities of

interest among the cities and towns that are affected.

The last topic that is addressed in both the governor's plan and the strategic plan that I'd like to refer to is the need for general fund support. There can be no question that the system will need an infusion from the General Fund in order to survive. The governor's plan argues that the system should support itself from probate fee revenues, but it's our view that self-sufficiency is neither practically achievable nor philosophically appropriate. Note, please, that none of the savings from restructuring can be achieved until we can, in fact, implement the restructuring. That can't be done until January of 2011 since judges are presently serving four-year terms that run until then. So, we certainly need an investment that bridges us from the present until 2011. I'd add that the method of using fees on a states and trusts to finance all the functions of the probate court is no longer appropriate when you consider the social service activity of the probate courts.

We urge the General Assembly to restore funding for indigent expense, as it has supported it in the past, much of which as I've mentioned results directly from the social service activities of the courts, and also request that the General Fund assume responsibility for the payment of health insurance for retired judges and staff in the same way that the General Fund covers that expense for every other state agency.

I'd like to close with an observation. While we're facing great challenges, at the same time I think we're presented with perhaps the best opportunity ever to strengthen and improve our probate courts. All three branches of state

government are engaged in this important discussion and I sense a very strong commitment on the part of all who are involved to build on the strengths of the probate courts and the people who serve in them. I would very much welcome the opportunity to work with the committee as it seeks to resolve the differences between the strategic plan and the governor's plan.

Thank you very much for your attention this morning. I would be happy to address any questions or comments from the committee.

REP. FOX: Thank you Judge Knierim and I believe this is your first time since you were appointed Public Court Administrator testifying before the committee, so welcome.

JUDGE KNIERIM: Thank you very much.

REP. FOX: And I know it's a difficult year for you. I know you have been working very diligently since your appointment and can you perhaps get into that somewhat as far as what you've done in terms of trying to bring consensus amongst the various courts because I know that that was at least a stated goal of yours at the outset.

JUDGE KNIERIM: Certainly. Thank you. I came into this role on October 1st. Conditions were a little different in the state budget at the time, but nonetheless, the trend was evident -- and it was my view that it would be very useful to have the Administrator's Office and the Probate Assembly try to work hand in hand to develop a comprehensive proposal that would address the systems' issues and that would enjoy broad support among the judges of the state. And Judge Fred Anthony, who is the president of the Probate Assembly, had already, at that point embarked upon a process with the

Probate Assembly in which he invited all members to submit suggestions and proposals and then provided a number of meetings for discussions to work through those and find common ground among them. So that process then continued for several months with a very robust discussion. I think it's a fair statement that no stone was left unturned in the course of the deliberations, and I'm happy to say that the product of that, the strategic plan, enjoyed the support of just a bit more than 80% of the judges who were present when the Probate Assembly voted on that plan. So I do think the Strategic Plan that you have before you represents a broad consensus of the judges and addresses -- really provides a good framework for moving ahead on the system.

REP. FOX: Would that plan still be relevant given the recent budget shortfalls, or is that a condition of that plan in any way?

JUDGE KNIERIM: Well, I think it is very much relevant and I think the issues remain the same. The severity of the system's financial problems has worsened and accordingly the General Fund -- the appropriation request that is embodied in the strategic plan has grown larger. I think it is probably a fair statement that the key element contained in it, that this committee will want to have a look at and deliberate further, is court consolidation. The strategic plan, as I mentioned, suggests that a voluntary plan undertaken by way of a process would reach no planning committees and at the other extreme in the debate I think it's the governor's proposal to, instead, just designate what the districts are in legislation this year and I would sense that much of the discussion is going to be about -- well how many courts and by what means would we be

establishing the revised boundaries for probate courts.

REP. FOX: Can you tell us you would envision the voluntary consolidation going forward -- how that would actually work?

JUDGE KNIERIM: Sure. What's contained in the strategic plan is a proposal to use the existing nine probate regions. They're simply administrative but my office uses them for a variety of things including some educational program and meetings of judges at the regional level. Our request is that the General Assembly empower regional planning committees using those boundaries to facilitate discussions with all the affected parties about how we can consolidate courts. The membership of those committees would be very inclusive. All the municipal CEO's, all the judges in the regions, practitioners, members of the public, representatives from municipal organizations and the hope was that the committees would then work during the course of the summer and fall, deadline of November 15, 2009, to bring forward consolidation proposals that could then be implemented by legislation early in the 2010 legislative session before the nominating process for judges begins, since all judges will be up for re-election in 2010.

REP. FOX: And to go the other extreme, what would happen if nothing happened? What would you do as administrator if you didn't receive any additional funds and if there was no voluntary consolidation or no consolidation whatsoever? What steps do you think would have to be taken?

JUDGE KNIERIM: That scenario is a nightmare scenario if I may. It would result in a chaotic bankruptcy in the system. I think we would face courts in various locations becoming

insolvent at an erratic pace -- being unable to meet -- make payroll and I don't think that there is a cohesive and workable plan in light of the severity of the financial problems to expect the system to be able to continue to deliver services in that event. My own office, Probate Administration, the lion share of this budget goes towards statutory obligations, for example paying the health insurance for judges and court staff. Out of the sum, $15 million that flows through the office, only about $3 million of it is the operation of the office itself. So while there could be cutbacks in that office, it certainly wouldn't solve the problem in and of its own and as it stands. The court districts are defined by legislation so they would all have to remain intact. So I think the doing nothing scenario for the probate system is one that in all likelihood would be very disruptive for the operation of the court and very disruptive from the standpoint of being able to deliver the services that are our responsibility.

REP. FOX: Would it be a situation where courts would slowly teal off -- you know, slowly just close? Or would it be something where it would be more of a drastic 10 courts, 20 courts, just would have to close?

JUDGE KNIERIM: I think it would likely be a smaller number, probably less than a dozen when I think of the number of courts that are presently subsidized because there expenses are larger than their revenues, but bear in mind that among those 10 would be most of the major city courts that handle a very significant portion of the system's overall caseload.

REP. FOX: Now with respect to the Assembly's vote that you said took place and you said it was over 80% of the courts were in favor of this

plan, was there agreement on the numbers, because I know that in the past that's been questioned?

JUDGE KNIERIM: As far as the finances go with the condition of the system?

REP. FOX: Yes.

JUDGE KNIERIM: I would say yes.

REP. FOX: I know you can't speak for everybody.

JUDGE KNIERIM: Yes, that's right, hence the hesitation. But I would say that at this stage the numbers are quite self-evident. We've made recent adjustments based on less optimistic projections about revenue going forward and I don't know that all judges have had a chance yet to digest those recent projections, but I think we've reached a stage where the judges of the Probate Assembly recognize just how severe the problem is and are in concurrence, by and large, that it is essential that the system be restructured to address those issues.

REP. FOX: Okay. Thank you.

Are there any questions for Judge Knierim?

Excuse me for one second.

REP. O'NEILL: Unfortunately I was distracted. I heard part of your answer to Representative Fox's question about what happens if we do what we have been doing steadily for the last several years on this whole issue about -- regarding probate which is nothing much. And it was my impression, and you were saying that it would result in bankruptcy, are you saying that actually -- let's say a particular probate district, pick a number -- Probate District

Number 119 or something would file for bankruptcy somewhere. When you are saying bankruptcy, is that what you are talking about?

JUDGE KNIERIM: Well not in the formal legal sense. I mean that in the sense of insolvency -- courts being unable to cover from their own revenues the expense of the operations of those courts. I would not expect courts to close, but I would also anticipate there would be very significant layoffs and much less ability to deliver the services required.

REP. O'NEILL: Because it was my impression that there was a statute, 'cause when we had these discussions before, that essentially if the probate court system runs out of money -- if your office no longer has checks to write to cover the expenses to subsidize for your supports and so forth, that there is a draw against the automatic -- there is a draw against the General Fund -- essentially there is an automatic transfer to cover those costs. Am I correct in that or am I wrong about that?

JUDGE KNIERIM: There is a statute that enables the administrator to send an invoice to the Treasurer for the amount by which the system is in deficit and unable to pay its obligations. So, while the statute exists and my answer was not factoring that in, in the current budget environment I wouldn't consider it automatic and we are also spending time with the Appropriations Committee to make sure that they are aware of the issues in the General Fund requests that we're making and I would feel a good deal more comfortable if our needs were budgeted as opposed to relying on that sort of a contingency.

REP. O'NEILL: Okay. I guess what I'm -- the picture that I think is a little, perhaps less

-- from my perspective if we follow the law, if you send an invoice and I don't remember what date you said that you are projecting now that will actually run out of dollars -- but whatever day that is, unless the law changes, but if you follow the law you send the invoice, the Treasurer is supposed to issue money, a check, and then you would be able to continue operations, maybe in a reduced fashion because some courts, and so forth, having money and then suddenly not having money of their own, but you haven't been subsidizing, and so on. So I can understand there would be a disruption over a reduction in services, but it is not as if there would be probate court judges filing bankruptcy over at the Federal Court Houses and doors being shuttered and receivers being appointed and that sort of thing as if it were a private business organization or even a municipality that would occur. So that's not going to happen and the second thing is that certainly it would be a lot more orderly if we did do something. It would have been more orderly if we had done something last year, the year before, the year before -- we've known about this for seven or eight years, at least, that we were heading in this direction. But, okay -- I just want to be clear about that because I was -- I know that periodically we repeal things and I don't realize and maybe I thought possibly we had repealed that statute that gave you the right to get money from the General Fund.

Thank you, Mr. Chair.

REP. FOX: Thank you, representative.

Thank you. Are there any other questions from members of the Committee?

Representative Olson.

REP. OLSON: Good morning.

JUDGE KNIERIM: Good morning.

REP. OLSON: Welcome to the Judiciary Committee. I want to start off by simply saying that I've heard a lot of positive comments as a result of the meeting -- meetings that you've had, and the assembly, in general, and being able to come up with some of these proposals. So, congratulations, because it is difficult to get a group of people onto the same page and it sounds like you've got about 80% of the people on the same page, and that's tremendous.

Based on -- I guess the position of the assembly, at least the 80% that voted for the plan, and I'm asking your position as well, the notion of having non-lawyer judges and the way that stands now -- the way the proposal addresses that and what we see going forward, if I may have your comments. Thank you.

JUDGE KNIERIM: Well, certainly. Thank you for the question. The topic that you raise, whether judges should be required to be attorneys or not is something that is another difference between the governor's plan and the strategic plan. The governor's plan would require not only admission to the Bar, but ten years experience as a qualification for the position. This is a topic that the Probate Assembly has debated long and hard over the years and in a very focused series of discussions again this year, in connection with the development of the strategic plan. The issue is quite divisive within our organization and in light of my goal of bringing forward to you a proposal that enjoyed broad support from among the judges, following that discussion I made the suggestion to the group that we table the issue and not

move forward on it. Now I think all members of the Probate Assembly recognize that it's a topic that would be continued to be of interest, certainly to the General Assembly, as it looks at things. But as an organization, the Probate Assembly made a decision to not take a position on the issue and I accordingly respect and honor that and don't take a position on it myself. One thing I would emphasize, though, is that the governor's proposal does not make any provision for grandfathering in judges who are currently serving and I think if the committee decides that an attorney requirement is appropriate, I would really urge consideration of the grandfathering element and I say that -- and this also has to do with why I'm comfortable coming to you and saying I'm not taking a position on the issue. It's my feeling that among the 26 judges we have who are not attorneys has represented a great deal of experience, very capable judges whose experience measures very well against a law school education and I think they should be able to continue to serve.

REP. OLSON: And I'm pleased to hear you say that in the sense that -- in recognizing the experience that many of these 26 judges have, moreover recognizing the fact that they are, in fact, elected officials and how do we, or the Probate Assembly, work with the very fact that they do -- they are elected by the people of their constituency or their constituent and certainly serve at their will. So that would certainly be an issue that I think that we must discuss going forward. I am not comfortable with simply eliminating the experience - in eliminating the judges who at this point are not lawyers. So I am glad to hear that that is an issue that is still on the table that something hasn't actually staked out their

position yet, but it is based on ongoing discussion. So I thank you for your comment.

JUDGE KNIERIM: Thank you very much.

REP. FOX: Thank you.

Are there any other questions from members of the committee? Seeing none.

Thank you.

JUDGE KNIERIM: Thank you very much.

REP. FOX: At this time if there is no objection from members of the committee, I ask that we go to Secretary Genuario, who is sitting here in the front row.

SEC. GENUARIO: Good morning. Good morning, Representative Fox, Representative Lawlor, Senator McDonald, Representative Kissel, Representative O'Neill and distinguished members of the Judiciary Committee. My name is Robert Genuario. I am the Secretary of the State of Connecticut Office of Policy Management and I am here today to address the committee with regard to House Bill Number 6385, which is Governor Rell's Bill on probate court reform. The subject of probate court reform as Representative O'Neill has properly indicated has been before the General Assembly and has been a matter, if you will, of public knowledge in terms of a need for reform, particularly from the point of view of the finances of the probate court system for five, six, seven, eight years now. It has been studied on many occasions and by different bodies. There seems to be a consensus that amongst the items of reform that would be needed in order to make -- in order to put the probate system on a sound financial system

would be a consolidation of course. The General Assembly, in fact, realized this by passing legislation that would provide initiatives and incentives for the consolidation of the courts and indeed a few courts have taken that opportunity and there have been some minor consolidations over the last several years. Frankly, the matter comes to ahead this year for two reasons. One, it is clear that under the current system the probate system will run out of money. Its funds, built up over a number of years, will no longer be sufficient to finance the system in its present capacity. There are 117 courts over a relatively small state. Some courts service a fairly small population. Some courts service a rather large population. Not only is the probate court system in financial trouble, but the State of Connecticut is clearly in financial trouble and the ability of the State of Connecticut to finance or further subsidize the probate system is obviously a difficult issue in the particular climate that we have. I think more important than the issue of whether the State of Connecticut over the course of the next two years can subsidize the probate court system to the extent that it would be necessary to keep it intact in its current state, the more important question is should the State of Connecticut finance or subsidize the probate court system in its current state and I would suggest to you that the inefficiencies and expenses naturally built into a system of 117 courts spread throughout the state give rise to the obvious answer that I think we all know, and under its current state, the General Assembly through its budget and the State of Connecticut should not subsidize this system.

The governor has put before you a plan which we believe would make the courts self-sustaining

for the foreseeable future. It suggests a reduction in the number of courts from 117 to 36. I'll talk a little about that in a moment. That would result in the elimination of 81 judges and we propose a modest 20% reduction in non-judicial staff expenses, both of which would result in significant savings. Compensation for probate court judges as Judge Knierim has indicated, both under our bill and under the probate court plan, would be based upon a weighted workload. Judges would be required to work a minimum of 20 hours per week in order to qualify for health benefits or pension plan. Right now there is no minimum number of hours a week a judge needs to work in order to qualify for those benefits. Governor Rell's plan would require that all courts be open not less than 40 hours per week, thereby making the system more accessible to the public. It would require all probate court judges be attorneys with not less than ten years experience and residence of their district. It would eliminate the statute that provides for retirement credit for judges that are displaced. That statute was obviously put in place to be an incentive since we are encouraging a mandated reduction; there is no need for that credit. Like the strategic plan that Judge Knierim has outlined, we would centralize the accounting offices and the payroll functions within the Office of the Probate Court Administrator and allow the Probate Court Administrator to allocate expenses based upon the needs of the individual districts. We believe this plan would save the probate system approximately $9 million per year and I said make it sustainable for the foreseeable future.

The probate court system has been, as I indicated, studied for a number of years. We believe that the time for the General Assembly

to act is now and that further study is not necessary at this time. We believe it is clear that 117 courts, a system that was put in place some 300 years ago, is now -- the time has come for significant structural change in the way we deliver the services, delivering those services in a very efficient fashion, still making courts accessible and requiring qualifications that are appropriate for the nature of the work that is to be done and the like or will make our probate court system better and put in place to service the public for the next 300 years.

I want to mention just briefly the issue of the 36 courts. The Governor's Bill suggests -- requires 36 courts and requires those courts to be consistent with senatorial districts. Probably the most difficult thing for the General Assembly to do with regard to the Governor's Bill is to look at the specific number of courts. I want to be clear about this. There is no magic to 36 courts versus 30 courts versus 40 courts. We do think that a substantial reduction in that neighborhood is appropriate. That is the type of reduction that would be necessary in order to deliver the savings that we think are appropriate to make the system self-sustaining. We also think that it is clear that courts of that size are still small enough to deliver the personalized services that all of us expect from our probate courts. Indeed, in many areas of the state, we have probate courts that service districts of that size and I've never heard anybody suggest that the probate court in Norwalk or the probate court in Stamford or the probate court in other urban areas delivers services in less than a personalized setting. So we think that that is an appropriate number and appropriate size of the district we could work and it would be certainly willing to work with the General

Assembly and the Probate Court Administrator, who I think as an aside has done a marvelous job in the short term he has been in that position, in terms of getting not only a handle on this issue, but bringing people together in order to address the issue. But that aside, we think that looking at the number of courts of this particular point in time is appropriate rather than putting off the decision to a year from now or two years from now in order to avoid the difficult decisions that we all need to make at this time in order to put the probate court system on a proper functioning.

I would be happy to take any questions if there are any.

REP. FOX: Thank you, Mr. Secretary.

My first question would be where you ended up -- if we wait a year or two and I asked this of Judge Knierim, what happens in your eyes?

SEC. GENUARIO: Well, certainly we are not advocating do nothing and if -- in the way you raised your question to Judge Knierim, the question was if the General Assembly -- if we do nothing to change the structure of the probate courts and if the General Assembly does not add any additional appropriations, what would happen. I agree with Judge Knierim that the Probate Court Administration would run out of money. I do think that that because the Probate Court Administration is funded through a line item in the judicial budget, that the judicial branch as a whole would have the option to rearrange some of their resources which would, no doubt, result in an immunition of services in other areas of the judicial branch and could use the finance advisory Committee to shift some funds from other areas of the judicial budget to the Probate Court

Administration if, in its judgment, it determined that that was a priority for the judicial branch. I am not recommending that. I'm not recommending that that is a fail safe that you want to take comfort in. That would be a bad thing, but that's probably what would happen.

REP: FOX: Also Judge Knierim spoke about the decline in the economy that has accelerated the need to have something done. Does your office agree with that assessment?

SEC. GENUARIO: Yeah, I think I agree with that for a number of reasons. One, I agree that it impacts the fees the probate court system will bring in and it also impacts the ability of the state budget to subsidize expenses of a system that is less efficient than a system that we might put in its place.

REP. FOX: Now you also spoke about the 36 courts and that's essentially divided by senatorial district and one of the concerns that I've heard from people who use the court is that it may be difficult, one to know what town your court is in, also your district court would change as the senate lines change. You've also said there's no magic number to the 36. So what criteria should we look at, some of the things we talk about are population, some are workload, things along those lines. I am just curious to see what your thoughts are.

SEC. GENUARIO: I think that -- I think we should look at the following criteria: one, looking at some of our larger courts that exist today -- can courts that service that large of a population deliver services and efficient humane informal setting. I think the answer clearly is yes, certainly that is true -- the districts that perhaps you and I are most

familiar with. So I think we'd look -- we wouldn't want to go significantly larger than those courts that would take a leap of faith, if you will, that a court that services 250,000 people could deliver the same type of service that a court that delivered 90,000. But perhaps a range -- a range that -- and don't hold me to these numbers, but a range that was between 75,000 and 125,000 people would be appropriate. That would allow you to get your courts down to somewhere between 30 and 40 and therefore would allow you to have a system that was financed by the fees of those -- that collectively were brought in throughout the state. So I think we need to look at the financial end of it to see what we can afford, and clearly can only afford a significantly smaller system. And two, we need to look at what is an appropriate size and I think there is evidence that size in the area of 75,000 to 125,000 can be serviced in a manner that we -- our population would expect to be serviced.

REP. FOX: And another part of the governor's proposal is the requirement that all judges be attorneys and Representative Olson asked the question earlier and that's an area…

SEC. GENUARIO: I listened intently.

REP. FOX: That's an area where you differ from the administration's proposal, at least what came out of the Assembly. And I believe I know the answer that this is the standard that is set for superior court judges, the ten years.

SEC. GENUARIO: It is. I think that we believe the qualifications matter. We believe that education matters. We believe that probate items, both in terms of the estate component and the component that many of our judges are now getting into is a service that they can

deliver, is improved if there are better qualifications. Is there something that we could look at as a part of an overall agreement that might grandfather some experienced -- some more experienced judges? Yeah, I would think that's something that we would be willing to talk about and look at.

REP. FOX: Have you had discussions with some of the smaller courts, some of the ones who may fall under this consolidation because some of the issues that are being raised, I know were raised several years ago, the hours that the courts are open, for example, your proposal -- the governor's proposal is 40 hours. I know we mandated 20 hours several years ago and that was -- eventually we all reached agreement on that. And then also with respect to attorneys being judges and other things, this will require discussion with everybody. I am just curious to what level you have reached out or the administration has reached out.

SEC. GENUARIO: Well in the last -- I can't tell you that in the last six months since this proposal was developed I personally have had conversations with area's probate judges. We have spoken, of course, with Judge Knierim on a couple of occasions. I do have -- over the years I've had opportunities to speak with judges from probate courts of all different sizes and I do believe that -- you know -- the case certainly -- a small probate court offer -- I don't want to suggest that the smaller probate courts offer nothing in the way of a personalized setting, of course they do. I think the larger probate courts can do that in an economical fashion. I think the experiences that probate courts of the size and nature that we are talking about, you can have the best of both worlds. You can have a personalized

setting and you can have an efficient and self-sustaining system.

REP. FOX: Okay. Are there any other questions for Secretary Genuario?

Representative Fritz.

REP. FRITZ: Thank you, Mr. Chairman.

Good morning, Mr. Secretary.

SEC. GENUARIO: Good morning, Representative Fritz.

REP. FRITZ: I was wondering if in your mindset, you had thought about how, if this plan goes through, how the elections would take place because now we are talking about multiple towns. Do you foresee primaries? Have you thought about how, what the rudiments would be for an election?

SEC. GENUARIO: Well, we have multiple town elections -- multiple town elections are plentiful in this state and I would think that the (inaudible) would follow for senatorial districts even if at the end of the day the exact lines of the probate courts don't match up with the lines of the senatorial districts that there would be multi-town conventions and appropriate number -- there would be an ability to primary the winner of those multi-town conventions. Those primaries would be held within the districts -- within the voting areas that are maintained by those districts. So I would see it as very comparable to the senatorial system in terms of the election process. I don't see a reason for any changes.

REP. FRITZ: But Mr. Secretary, I have a town that has two senators.

SEC. GENUARIO: Yes.

REP. FRITZ: What happens then? Same thing?

SEC. GENUARIO: Well, if the General Assembly were to choose to adopt those lines as the governor has recommended, the same thing would happen if there was a primary in the Senate races in your town. There might be -- and let's not limit it to your town, let's say that a probate court district line crosses any town as it so frequently does in the Senate and sometimes in the House of Representatives. The primary would be had just like the primary in the case of the Senate seat. If you have a senator in the north end of your town and a senator in the south end of your town, if there is a primary in the south end of your town, those voting districts that elect the Senate from the north end of your town don't vote in that primary. Only those voting districts that elect the Senator in the south end of your town vote in that primary. The same would be true in the probate court system. Those voting districts that ultimately elect that judge to that position would also be the same voting district that would participate in a primary.

REP. FRITZ: I see the small towns as losing because one of the senatorial districts is Waterbury and Cheshire the other one is Meriden and Cheshire. Cheshire wouldn't stand a chance because of the population of Meriden and the population of Waterbury.

SEC. GENUARIO: There are -- there is no doubt that there will be required greater collaboration -- I guess I'm troubled by the comment "the small towns that will lose". Who in the small towns will lose? I don't want to get into a charged debate but the political class in the small towns, will the residence of Cheshire who

probably pay a significant amount of taxes to the State of Connecticut be less better off if they have a qualified judge that is elected from a larger district. I don't really think so. Ultimately the position of the -- the purpose of the system should be to provide quality services to all the residents of a region at the most efficient and the most efficient way possible. But in the same argument could be made under our current system in my home town. In my home town we have a probate court that covers Norwalk and Wilton. Norwalk is a much larger city and generally speaking over the years the probate court judge has come from the larger city. It doesn't have to be that way. There have been hotly contested elections (inaudible) it wasn't that way. If you look at multi-town districts in the rural regions of the state, the same dynamic takes place where you may have a multi-town probate court just like you have a multi-town senatorial district and the probate court judge is going to tend to come from the district that makes up the bulk of the population. But in larger districts where -- in regions where there are a lot of smaller towns, that dynamic is less in place than in regions where there is going to be large city in a small suburb. You couldn't -- you wouldn't say, for example, that in Litchfield, again to use the senate comparison, you wouldn't say that in Litchfield County that the Senator from Litchfield -- that the courts -- the districts up there always come from the same municipality. They don't. And the same thing is true in the eastern (inaudible). So where we have a lot of smaller communities, that dynamic is less in place.

REP. FOX: Are there any other questions?

Thank you.

SEC. GENUARIO: Thank you very much. Thank you for your time.

REP. FOX: It's now past 11:25, so what we'll do is we'll alternate between elected officials and members of the public. The first one from the public to testify is Judge Fred Anthony.

JUDGE ANTHONY: Good morning. And I serve as the Probate Judge from the district of Shelton and I also serve in the capacity as President of the Connecticut Probate Assembly. The Connecticut Probate Assembly is the organization which represents all 117 of the state's judges and is formed by Connecticut General Statutes. I am here to testify specifically on Bill 6027 and 6385, although there are many for your consideration today.

6027 comprise the strategic plan which was submitted by the Administrator's Office and the assembly. As Judge Knierim indicated, we are quite proud that that plan was approved by 80% of the judges who voted upon it. When people come to the probate courts, I think we're all aware that they are often facing very difficult times, the death of a loved one, the incapacity of a loved one due to a debilitating disease such as Alzheimer's or concern for a neglected or abused child. The courts also recognize that we have a responsibility to be responsive to those cases and yet still be cost-effective. In drafting the strategic plan, the judges tried to reach a very delicate balance between those two interests. As I indicated in Judge Knierim also, we are quite proud that 80% of the judges, who voted on it, approved it. I think it is important to see the process that we took to reach that consensus. It was a very open, inclusive process. Upon my election, we started a process upon which every judge was

invited to submit any type of idea or proposal for restructuring or reform. Every judge had an opportunity to submit a plan. Fifteen were submitted to the assembly as a whole. It was a quite spirited debate. There was a lot of compromise. There was a lot of discussion and at the end of the day, as we indicated, there was an overwhelming consensus. Judge Knierim outlined the plan. I don't want to take my time to do so, I believe it has already been well stated to you, but I would also point out as Judge Knierim said it was a joint effort between the assembly and the administrator's office. We are also quite proud of that, that we were able to work together to try to reach consensus to ensure that we can continue to provide services in the probate court.

Judge Knierim went through the similarities and the differences between the two plans. As indicated, both of them seek increased fiscal responsibility, both of them seek to try to ensure that we have professionalism in our probate courts and that we provide responsive service. One thing I will represent to the members of the committee is that during many of our deliberations, the question that was often posed by judges was what does the legislature want, what direction does the legislature wish us to take in reviewing this? We made our best efforts to come up and review some of the proposals and issues that came before us and to provide you with a strategic plan. But I can represent to each and every one of you that the vast majority of the judges represent difficult times, but not only the probate court system face but that the state faces. I am proud of the plan that we have submitted and I will tell you that an overwhelming again majority of the judges are committed to the process of restructuring and strengthening the probate court system to ensure that we continue to

provide cost-effective and responsive services to the people. Based upon that, most importantly, I would say to you is that we've submitted the plan, we've taken a hard look at the system, we've tried to resolve many of the issues that have faced the system over many years with a comprehensive plan, but most importantly we look forward to the opportunity to work with the committee, the Legislature and the governor's office to try to ensure that we can address all of these issues.

REP. FOX: Thank you, Judge Anthony. I know that you've worked very hard in trying to build this consensus and I know that all of that was done over the course of several months ago and in the meantime the governor has come out with her proposal which, as Secretary Genuario just testified, includes a consolidation to 36 courts, which he also recognized is not a magic number. What would that do to your consensus, 'cause I have to assume that that would not be agreed upon by a number of your judges?

JUDGE ANTHONY: Well, looking at the governor's plan and trying to determine where that the Assembly as a whole would fall upon that would frankly require some -- a guess on my part. I could tell you that looking at the concepts there is -- the governor's plan speaks of a distinct separate probate court system such as (inaudible). Our plan also recognizes that consolidation may be necessary to indeed provide for the continued success of the system as it stands. The difference between the two plans, though, is what we would like to do is have it be a very inclusive process, similar to the one that the Assembly had. That you have it take place in regional areas. For example I am the probate judge in Shelton. It is very difficult for me to tell you what the demographics and geography are in Tolland.

But, by setting forth a regional committee as Judge Knierim stated, each of those areas can look at the needs of the respected constituents in that area and then attempt to draft a cohesive plan that will address the needs of all the people of the state of Connecticut.

REP. FOX: I know you've done some work on this, which is why I feel comfortable asking you, can you tell us what some of the priorities are that you would look to in establishing such a plan and I asked Secretary Genuario is it population, is it workload, is it perhaps geographical area in terms of accessibility to the courts?

JUDGE ANTHONY: I think you've hit all of them. I don't think there is any one specific issue. For example, looking by senator districts, you end up with oftentimes very small areas or large areas. For example, one that struck me as I looked at the map is that -- I have to say I wasn't well versed in senatorial districts until the governor's plan came out -- but you have a senatorial district, for example, that goes from Brookfield all the way up to the state of Massachusetts. So it covers a very large area. In contrasting that to senatorial districts, so you have all of those people in one probate court, but then you would have people in major municipalities such as Bridgeport and New Haven trying to decide between two probate courts. Or you have other towns that are split among senatorial districts. Oftentimes we said we're user-friendly. Most people don't have an attorney that comes to our courts, so now you have a self-representing individual, an elderly widow that lives in a split town and says, well, where do I go? Oh, you live in Seymour, well it depends. If you live on Main Street on the south side of Main Street you would go to this

court, but in the north side you would have to go to another court. It would make it very difficult not only for practitioners to be able to sort through that, but obviously for the public as well.

REP. FOX: All right. That's one of my concerns because it also could change as a census would come and change and the senatorial lines are redrawn. Last year you were part of this district but then this year your not, and it's hard enough for people to use the courts without trying to figure out where they fall under census data. Is it the recommendation of the assembly, I realize you probably haven't put this to a vote, but do you think it is the consensus that courts should remain wholly within towns as best as possible.

JUDGE ANTHONY: As President of the Assembly, I am fond of saying that my position is what 58 people tell me my position is. But, for the most part all of our districts are drawn by town and that is how people identify with their courts is that they know they are part of a specific town and that town goes to a specific court and I think certainly that should be a component. You indicated others, geography, demographics of each town, all I think would come into play to ensure that you could have a court that is not only viable financially, but also can indeed provide accessible services to the people.

REP. FOX: And another question that I asked Judge Knierim was whether the numbers; the financial data, that's being presented to the assembly, is that generally accepted by the courts in your estimation.

JUDGE ANTHONY: I would have to say yes, because there has been a lot of concern and debate over

the numbers in the past. Certainly with Judge Knierim becoming the administrator there has been a renewed sense of cooperation and trust between the assembly and the administrator's office. We've had an opportunity to review numbers. He's been very forthcoming in the information that he has and there has been a certain free flow exchange of information between the administrator's office and the assembly and the judges by large.

REP. FOX: And do you also agree with him with respect to the current economic situation that we find ourselves then? The problem that we face with the probate courts is accelerating in terms of we have to act more this year as opposed to -- I think the numbers we'd originally received were 2010 was the time when the courts would run out of money essentially, but that date appears to be moving closer and is that something that is accepted you feel amongst the courts?

JUDGE ANTHONY: I've heard nobody question that basic premise that indeed we need to act because we have a severe financial, economic crisis upon us. During all the debate and deliberation, I do not hear much discussion as to oh no the numbers aren't really correct, we'll be fine. So I think that is an accepted premise. Yes.

REP. FOX: Okay. Are there any other questions for Judge Anthony? Seeing none.

Thank you.

JUDGE ANTHONY: Thank you very much, Representative Fox.

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REP. FOX: Thank you. Are there any questions for Dr. Norko? Seeing none.

Thank you very much for your testimony.

Next, back to the public hearing list, is Judge Killian here?

JUDGE KILLIAN: Good morning, Mr. Chairman and distinguished members of the committee. My name is Robert Killian, Jr. and for the last 26 years I have served as a judge at probate in Hartford, what would appear to one of Connecticut's busiest probate courts. I am here today because of two bills that you are hearing; one is the transfer of contested conservators in similar matters to the superior court, which I must tell you I totally oppose.

HB 6027
HB 6385

Last year, Mr. Chairman, this committee and the General Assembly as a whole enacted significant reforms in the conservatorship process. I was involved in that with a very distinguished committee of lay people. We significantly defined the role of the judge in these hearings. We significantly determined time limits for decision making and most significantly of all we extended new rights of appeal and review to people who are affected by decisions of judge. We've handled thousands of conservatorships since that new law took effect last year, October 1. I got to tell you, I've checked, one of the most significant changes, we gave people the right of a habeas corpus review of petitions that were initially heard in the probate court for conservatorships. To my knowledge, not one has been filed in the state of Connecticut. The appeal process is expedited and to my knowledge, there has only been one or possible two appeals that were taken but none which have furnished business to the superior court. I would submit to you that

in its wisdom, this committee and the General Assembly last year fundamentally resolved the issues of concern that led us to review and revamp our conservatorship (inaudible). To do what you purport to do here by transferring contested matters and Dr. Norko is totally correct, virtually every conservatorship hearing is contested. That is almost by definition. We spend a lot of time reminding the lawyers we appoint to represent these people that it is incumbent upon them to treat this client as somebody who is entitled to a thorough review of the circumstances that brought him before the bar of justice. I would hate to see a transfer to Superior Court based on the fact that there are periodically cases in which the probate judge screws up. That happens. It happens in the Superior Court, but nobody is suggesting that because there are a large number of appeals in the appellate court and above that we should remove jurisdiction from the superior. Judges operate in the context of review. We have extended the right of review, although lawyers have not chosen to avail themselves of it, and I would submit to you that is adequate for the purposes here.

As to what I call the biggie, 6027 and 6385, I am very pleased with what my colleagues in the probate system did in coming up with a proposal, a road map for change, that I believe could possibly bear fruit if we had enough time. I am also pleased with what Governor Rell did in proposing that this General Assembly take this bull by its horns and consider consolidating now down to a number of courts, which was more expeditiously, efficiently and I think professionally see to the needs of the people of Connecticut.

I believe the governor has come up with an unusual and ill-advised twist when she suggests

There is no testimony for pages 3301 - 3399. The next page is 3400.

that we make our districts coterminous with senate districts, that would mean, Mr. Chairman, that your town would have two probate courts and if mine would, Waterbury would, a lot of towns that are -- I think it might mean that the Newington probate district would have three probate courts, hardly serving the people of their respected towns. Hardly, I would submit, a good idea, although I think a well-intentioned idea. The idea that a probate court approximate the size and scope of a senate district certainly would create probate courts that were populated to a point where they would have the best chance of being cost-efficient. I would submit to you, Mr. Chairman, that if we are going to adequately serve the needs of the people of Connecticut, we cannot do it with 36 probate districts. Like I suspect many of my colleagues, I have dug out a set of crayons and colored in maps. I don't see how you can possibly serve the needs to Connecticut in terms of what -- I think it is a challenge to have them be geographically approximate size, efficient and the like and representing existing community of interest. You know there are places in Connecticut that even though they show up to someplace else on the map, you can't get there from here, and given our roads and some of our other natural figures. I think you are going to need ultimately about 50 probate districts. Forty probate districts, the smallest 40, comprise virtually all; I think 21 of the 26 non-lawyer judges. They do a caseload that approximates that of the 4 or 5 biggest courts. They are ripe for the opportunities for consolidation as has been proven in those districts of that size and scope that consolidated the last couple of years and which are functioning beautifully. I hope that you will pay attention to most of the other considerations of my colleagues, and I think

their suggestions for how we should pay judges and the like are good and I hope you will pay attention to one of the suggestions of the governor and that's that with a grandfather clause in place, that you enact a requirement that all probate judges who run for office from now on will be lawyer judges. I think that is imperative, particularly as you get larger and the scope is going to require more attention to the matters which come before the court.

That's my feeling about these matters and I certainly don't envy you -- the task of getting your own box of crayons. But I think it is important to do it, and do it now, because we cannot survive if we don't have a plan in place before the next (inaudible) election.

REP. FOX: Thank you, Judge Killian, and thank you for your past efforts to work with us with respect to the Conservator Bill, in particular, which I'm pleased to hear is -- seems a success. If there are changes or tweaks that need to be made, I would certainly love to hear that and see what we can do to make it better.

With respect to the last part of your testimony and the consolidation issue, as I understand it you're court in Hartford has the largest workload of any of the 117 courts. Is that correct?

JUDGE KILLIAN: As of I think last year's figures, yes.

REP. FOX: And do you know what that -- what the numbers are in terms of how many cases you...

JUDGE KILLIAN: The weighted workload system of course assigns multiple numbers, so it comes out a large number. It is over 11,000 in terms of weighted workload.

REP. FOX: And in terms of how we look forward and we address the courts, how important a priority is workload to you, in terms of how we evaluate the decision?

JUDGE KILLIAN: Workload tracts two factors, district size and the extent to which the district is urbanized. Urban, large districts have significantly greater workload than comparably sized, less urbanized, districts. So it is a very important factor. It is not exclusively the fact. You know, Hartford, itself, is bigger by some order of magnitude than any senate district. That's why we have two of them and so with our 127,000 we exceed by several deviations the norm for senate districts. I would suggest to you that it is a factor. Hartford also is the home for the busiest mental health facilities, the busiest hospitals; a lot of convalescent homes, a lot of homeless people, a lot of people who are drug-addicted, all of these are the stuff of which work to a probate court is furnished. There are small towns which have unusual caseloads by virtue of that -- housing some of those types of institutions.

REP. FOX: And those are all types of cases that would come before our probate court.

JUDGE KILLIAN: There are all types of cases that come before the probate court.

REP. FOX: And, with respect to the urban nature of certain courts and the reason why they have a greater workload, is that also due to the services that the court would need to provide for poor, for children, and others.

JUDGE KILLIAN: Yes, Mr. Chair.

REP. FOX: Now I know in the past there has also been some specialty courts set up, with respect to the children's courts as well as I believe a complex court has been set up, what role do you think they would play going forward in this effort?

JUDGE KILLIAN: I think every child that comes to a probate court should be able to count on fully trained staff and fully trained judges to hear the matter. I think we would make a giant step forward in that if we were to reduce in size the size - the numbers of courts in precinct size, the population they serve. I think children's courts are one way to achieve that purpose. I think assigning judges who by virtue of their caseload have experience in certain areas that other judges by virtue of their normal caseload don't to hear those caseload is something we do routinely and it's a good idea. But it seems to me people should be able to walk into their court and be comfortable that the personnel with whom they deal are going to be able to put themselves and their needs professionally and with a body of knowledge that allows them to give them the right answers and to do it quickly.

REP. FOX: And for the benefit of the members of the committee, can you talk about some of the decisions that judges need to make that involve children.

JUDGE KILLIAN: Sure -- terminations of parental rights, emancipations of minors, removals of parents as guardians of their minors, temporary custody for the children, adoptions. These are all matters that we routinely do that involve children. There are others -- the state related matters, guardianships of the estates of children where they have been in an accident, approval of compromises of claim

relative to children, supervision of the funds that are supposed to be for the benefit of the child. Those are the children's matters I think that we primarily -- name changes for children.

REP. FOX: Well, thank you. Are there questions from members of the committee?

Representative Roldan.

REP. ROLDAN: Thank you, Mr. Chairman.

Good morning, Judge Killian. Good to see you.

JUDGE KILLIAN: Good morning, Representative Roldan.

REP. ROLDAN: You seem to walk a fine line relative to the governor's proposal and what's your own thoughts relative to the issue of reforming the probate court system. Hartford seems to be an anomaly. And some might say an anomaly in many occasions, but in this particular issue of the probate court, you are currently able to manage the workload and then some, than most other courts across the state of Connecticut. So splitting Hartford into essentially two different probate courts in your opinion would perhaps -- not perhaps, it will most likely increase the cost of operations for the probate courts. Is that an accurate…?

JUDGE KILLIAN: It would definitely increase the cost. I think Hartford has the lowest cost per weighted workload of any court in Connecticut. Hartford, however, loses money and it costs just over $700,000 a year to run the Hartford probate court and we generate about $630,000 of that. That's my memory of the figures, it may be off by a few, but the order of magnitude, we borrow I think about $70,000 a year or we are funded from the state about $70,000 a year. We

don't have, as you know, Representative Roldan a lot of million dollar estates in Hartford. I am more concerned that splitting Hartford would decrease -- the parts would not be equal to the total. For example, Hartford is a lot more -- the probate court is a lot more than its judge. Any judge in the Greater Hartford area could do what I do. Hartford is people like Tina Lamore who heads up my children's department. She is a MS WJD. She is ideally suited to be handling this type of work. Hartford is somebody like Sondra Waterman who is the chief clerk and has been frankly training lawyers in estate matters now for 38 years. We have an extraordinary staff and I don't know that if you had a smaller number of people or a smaller caseload that you could justify that kind of a staff. That's the crucial item to me for the probate courts. When someone comes into the court with a problem, I'm not the one they talk to. I shouldn't be the one they talk to 'cause I'm going to hear their case. They talk to one of the people on my staff, half of whom are Hispanic speaking, 40% of whom are minority, black, we had up until her death we even had an American Indian. This was America (inaudible) and a chubby, white judge. What more can you ask for? (Laughter) The fact of the matter is that's what you pay for when you properly expend public dollars on a court. We've got other courts in Waterbury, is a larger population than Hartford, because it has consolidated districts, New Haven, Bridgeport, Stamford -- all these courts are either larger or similar scope in size to Hartford and do a similar caseload. All have part-time judges at their head. You know that is something eventually -- my wish list, I don't even get into it today, I'd like to see probate judges appointed and full time and not elected. But that's not today's issue. But I truly believe

that an optimum size for a court is certainly in excess of 60,000 people.

REP. ROLDAN: But, to the Chair, if I may just on a follow-up to that -- you didn't bring your box of crayons today I take it. Right?

JUDGE KILLIAN: I don't have any crayons.

REP. ROLDAN: Okay, well.

JUDGE KILLIAN: I'll send you both the crayons and map I colored any time you want.

REP. ROLDAN: But, let's say that this committee did have a box of crayons and would take your suggestions as to how exactly the districts would be created. Obviously you have concerns regarding the senatorial district approach to this. Any suggestions for this committee as to how we might consider that knowing the (inaudible) to Hartford politics yourself, you know the process that it takes to get through this process?

JUDGE KILLIAN: Since we are not troubled by a one man, one vote concept, we don't have to have the burdens of splitting cities or towns as they do when they apportioned your district or Representative Fox's or Senator McDonald's. The fact of the matter is that you -- but even you have standards, and one of your first standards is don't cross town lines. That's a criteria as I understand it in the redistricting to try to keep the town in (inaudible). I think that should be the first standard for our group. The second standard I would have is where accessibility gets challenged by geography in an attempt to create size go with accessibility. We can afford to have -- we have some courts -- we have a number of courts which are larger than the senate

district. So we can afford to have courts that are smaller than the senate districts and I think that there is a nexus between what we do and the community and it is important that we don't rupture that relationship.

REP. ROLDAN: Thank you, Judge. Good to see you again.

Thank you, Mr. Chairman.

REP. FOX: Thank you.

Are there any other questions for Judge Killian? Seeing none.

Thank you, your honor.

JUDGE KILLIAN: Thank you, Mr. Chairman.

REP. FOX: Next we'll go back to Barbara Henry, First Selectman Town of Roxbury.

Hi. Good afternoon.

BARBARA HENRY: Hi. How are you?

REP. FOX: Good.

SB1098

BARBARA HENRY: Thank you, Representative Fox and members who are left on your committee. I appreciate being allowed to speak here today.

The reason for me being here is twofold. First, as First Selectman for the Town of Roxbury I am very much in favor of Health Bill 6007, which is an act concerning the merging of the Roxbury and Southbury district courts? I am also here as First Selectman and as Vice President of COST to speak out against SJ63 HB6027, HB6085, and HB6626.

HB6385

HB6007

I'd like to speak to the first issue. The towns of Roxbury and Southbury are voluntarily looking to merge their probate courts and this would not be the case at all if we didn't see the writing on the wall as far as the probate system and where it is headed. In recognizing that small towns like Roxbury who are basically at the bottom of the food chain, we have a population less than 2,400. We're going to be penalized due to the unfortunate mismanagement, the Secretary said "inefficiencies of the probate system" and I cannot fault the small towns for that. But the towns of Roxbury and Southbury have done their due diligence and we recognize a mutual benefit. Even though if we are approved for this merger, we would still not meet the $50,000 population requirement. The predominant common characteristics of intermunicipal, cooperative, not mandated, ventures are that they are single purpose in nature, they are specialized to meet well-defined goals, their participation is voluntary. I can't stress that more because municipalities retain the highest degree of local autonomy while securing the benefits of cooperative activity and it's because they are perceived to be in the best interest of the community. I also see that Harwinton's Board of Selectman has just approved its merger into the Litchfield district court. The program's effectiveness is evaluated locally and for us this is the continued delivery of service to our residents and the willingness, and while it's in a bordering town its not across several towns and cities.

I can't help but mention the word fear 'cause this is the driving force behind our decision to merge and after much due diligence on the part of our judges, Janet Puglio in Roxbury, who by the way is not an attorney, has run an outstanding court for many, many years and

Judge Sutnik in Southbury, and he will be speaking here today, along with the legislative bodies in both towns, we have voluntarily decided on this consolidation of our town courts.

To speak to the second issue, as Vice President and as First Selectman of COST, we oppose all of those above-referenced bills that I mentioned which would undermine the viability of Connecticut's local probate courts in smaller communities, increase costs and force the mandatory massive, impersonal consolidation of local probate courts. Connecticut's probate courts handle a multitude of matters and you know what they are. Clearly, these are issues that must be addressed with sensitivity and respect and it is critical that they be permitted to continue to address these small needs -- I mean these needs in smaller local probate courts.

Unfortunately the bills before this committee penalize our small towns, dramatically reducing the salaries of our probate judges and requiring probate courts to be open 40 hours a week, regardless of the needs of the community. We are extremely disappointed that these proposals call for massive impersonal consolidation with little, if any, evidence that such consolidations will decrease costs and preserve critical services. Cost is also concern that these proposals jeopardize the well-being of the local people, especially the elderly. These folks certainly don't need to become merely a large number in a large unfamiliar bureaucratic operation but strongly supports initiatives to encourage voluntary regional cooperation. As Connecticut's small towns and cities struggle to do more with less, many communities are exploring new opportunities to share resources to meet these

growing needs. The consolidation of Roxbury and Southbury is only one shining example. However, regional initiatives do not always achieve cost savings or deliver services more efficiently and we should be mindful of this when we consider proposals that force massive consolidation of traditionally local services. According to a recent study by Steve Lanza, Editor of the Connecticut Economy, "municipal consolidation or other service sharing plans offer no silver bullet for the problem of costly local public services." Cost opposes the provisions in these bills, which would force consolidation of the local probate courts and instead urges lawmakers to look to voluntary options for reducing costs and improving the delivery of services to our probate courts.

Thank you.

REP. FOX: Thank you very much and thank you for your testimony this afternoon. I think it's good to have you here today and thank you for coming because you bring a prospective that is somewhat different in that you're the chief elected official of a town that has chosen to consolidate and I am interested to hear what were some of the considerations that went into that consolidation, what kind of discussions did you have, because I'm assuming there are problems that developed, you had to work through them, and come up with a solution. So I'd be interested to know the process.

BARBARA HENRY: Well, number one, I respect the opinion of our judge and we also respect the judge to the district that we are (inaudible) moving into. A big consideration is where it was. It was in the next adjoining town. It is a court that has just been remodeled, redone, expanded, etc. so that our town can move in

there very comfortably and have no problem. Our probate judge -- the biggest thing she has agreed to retire and that I would have gone to the mat to keep her, but she is going to do this. She sees the writing on the wall as she has said. The other thing -- so it's the delivery of service and that was very, very important to me to make sure that that was going to continue for our community. One thing that was mentioned here, probably may never see a probate judge from Roxbury in the Southbury district court, but you know what, you just never know because of the size of the two. The biggest thing that was important to me is that we took this to a town meeting for discussion and like I said, we saw the writing on the wall, we want to be proactive, we want to do things the way we want to do it, and the legislative body voted yes.

REP. FOX: And with respect to expenses, was that -- did that come up, 'cause I know that the courts, the individual towns provide the courts and there are certain expenses that go with that.

BARBARA HENRY: It would be based on per capita. So our costs actually will not increase significantly, and that was another consideration.

REP. FOX: Okay. Are there any other questions?

BARBARA HENRY: But that's two courts now -- now we are looking at the Southbury, I should say looking probably to get more towns in there because we see the 50,000 population mark -- if that happens, so be it. As long as we don't have to see our people go to a city that is not even located near us, we will be happy.

REP. FOX: So, geographically

BARBARA HENRY: We'll be content.

REP. FOX: Geographic proximity was an important consideration as well?

BARBARA HENRY: Yes, very.

REP. FOX: Thank you.

Are there any other questions? Thank you for your testimony.

BARBARA HENRY: Okay. I hope to be back here on Wednesday to speak out against Bill 1098. I think it directly attacks the Roman Catholic Church and its faith. Thank you.

REP. FOX: Thank you.

Next is Marilyn Denny from the Greater Hartford Legal Aide. Oh, she's coming. Thank you.

Good afternoon.

MARILYN DENNY: Good afternoon, Representative Fox, (inaudible) members of the Judiciary Committee. My name is Marilyn Denny. I am an attorney (inaudible).

REP. FOX: Excuse me, if you just could slide over a little.

MARILYN DENNY: I'd be glad to. Thank you.

I am here to testify or talk in support of House Bill 6626, House Bill 6629 and 6385 and in opposition to Senate Bill 576 and House Bill 6027 and I will try to be very brief. I've submitted written testimony. In terms of House Bill 6626, the act to transfer jurisdiction, I think it is an idea that must be considered

when consolidation of the courts are being considered. Certainly the legislation passed in 2007 which reformed the conservatorship statute made great progress as Judge Killian observed, however there are still some significant problems in implementing that statute in the probate courts. For example, Judge Knierim when he addressed the (inaudible) Section of the Bar indicated that while we are still haggling over how and which of the rules of evidence apply, the probate manual on procedure really must be revised because it does not offer as much help. That would not be a problem if many of the contested conservatorship cases were heard in the Superior Court. It would also save a good deal of money because these contested cases do take a long time. In terms of a bill that has not been addressed so far, I speak in favor of House Bill 6629, an act concerning guardian ad litems. They are not necessary in conservatorship cases. They duplicate efforts and they add confusion. Under the standard, they operate under the best interest standard whereas we have changed the conservatorship statute to look at what we call substituted judgment. So they cost either the estates of people with a great deal of money or the indigent fund money. They add nothing to the process except a great deal of confusion. I want to also support the governor's efforts to reform the probate court's House Bill 6385. We believe it is a thoughtful plan and that consolidation is necessary and I want to speak in opposition of Senate Bill 576, an act concerning the Connecticut Uniform Protective Proceedings Jurisdiction Act. While many people in this room who will testify who have worked on that act for a considerable time, the final language of the bill has only very recently been made available to many of us. Therefore, we feel that it does need, it is

clearly says that that should be something of a last resort or do what the person wants and they are not bound by that.

SEN. MCDONALD: And in your experience is there any methodology by which GALs are selected by the probate courts -- objective methodology?

MARILYN DENNY: I believe -- well, we have seen one case, unfortunately, and there was a private attorney here who is involved in it also with a GAL selected previously than the court-appointment attorney. We thought that the statute barred that flip, so to speak, but apparently that probate judge is reading the statute and saying you cannot at the same time represent the person as the attorney and be the GAL, whereas this was a case in which the person had been the court-appointed attorney, was replaced by a private attorney and now has become the GAL. We think they are selected from the same panel of people who in the court appoint as attorneys.

SEN. MCDONALD: Thank you very much.

MARILYN DENNY: You're very welcome. Thank you.

REP. FOX: Thank you.

Are there any other questions? Thank you.

Next is Judge Barbara Quinn. Good afternoon, your Honor.

SJ63
HB6027 HB6385
HB6626

Judge Quinn: Good afternoon, Representative Fox and good afternoon Senator McDonald and distinguished members of the Judiciary Committee.

I am the Chief Court Administrator and I am here on behalf of the judicial branch to talk

about some of the probate bills that are before you. I have submitted some written testimony and I won't repeat it all here. But, we are here to discuss Senate Joint Resolution 63, House Bill 6027 and House Bill 6385 and 6626. As you may be aware, the branches role with regard to the probate court system is one of limited oversight. The Chief Justice appoints to Probate Court Administrator and the branch reviews and approves the Probate Court Administrator's budget each year and we review that on an ongoing basis. And as Judge Knierim rightly pointed out, the fund is about to become insolvent and the system in its present configuration cannot sustain itself and a solution must be found this year. We think that both House Bill 6027 and 6385 do indeed, as Judge Knierim said, framed the debate and we are also appreciative of the hard work that the Probate Court Assembly has done to arrive at a plan. And we are not really here to weigh in on the merits of either plan, but to say that really a plan must be adopted to find a resolution shortly so that the probate court system may live within its needs. And I know that important discussions have been going on on this subject to work on the best proposal that will ultimately be enacted and please be assured that we will be available to assist if you would find that helpful. I would just want to make one comment, Secretary Genuario made a comment about the funds that are provided to us on behalf of the probate court administration and we are a budgeted entity and the Probate Court Administrator's office is not. So as a matter of administrative convenience, the money flows through us. I should also say that we do not receive through that system any monies other than those in any given year that the legislature determines to provide to the Probate Court Administrator, so this past year I think there was somewhat around $2.5 million

for the children's courts provided to us to pass through to them. So if you did not appropriate any money to provide to the probate courts, we would not have any funds to turn over and by inference no further funds to find or administer in any particular way and I think that highlights one of the difficulties in most of the funding for the Probate Court Administrator's office, of course, comes through the contributions of the courts themselves make and the fund, which as we know is running out, and the structural deficiency relates to the costs that Judge Knierim outlined. Let me just say this briefly, we are opposed both to Senate Joint Resolution 63 and House Bill 6626. A Volition of the probate courts would mean that every one of the approximately 82,000 matters that are handled in the probate courts each year would be transferred to the superior court, or mandating that contested matters would transfer to the superior court would also mean that a large portion of those cases would come to us. We cannot absorb this additional workload. We could not have done so under the best of circumstances and certainly cannot do so now when we are all facing reductions in the funds available and likely reductions in our workforce.

In addition, let me say that we believe the probate courts continue to play a valuable role and for over 300 years they have assisted families and individuals in resolving the most delicate of issues. They have the experience and expertise, the value of which should not be underestimated and for those reasons we would ask you not to act favorable on Senate Joint Resolution 63 or House Bill 6626.

Thank you for the opportunity to testify.

REP. FOX: Thank you, Judge Quinn and you addressed one of the questions I was going to ask you. When Secretary Genuario testified I asked the question of him, as well as Judge Knierim, what happens if we don't do anything? If we don't appropriate any more money and if we don't take any other action and what he said was the judicial branch would take care of it, obviously within means, but he said that would be one of the steps that could be taken. I did want to know what your reaction to that would be. I assume you don't have anything budgeted this year that would involve taking over the probate courts.

JUDGE QUINN: No, and the proposed governor's budget doesn't have any funds to be provided in that administrative mechanism for us to the probate courts as I read it. But you're right she has no funding.

REP. FOX: So maybe if I ask you the question, what role do you think the judicial branch would have if we did nothing and if as Judge Knierim said it would be a disaster. What do you think would happen?

JUDGE QUINN: Our role relates only to the Probate Court Administrator's budget and not to the individual courts. So it is just sort of back way around of addressing the issues since of course the funding for the administration comes from the local courts. Obviously we would work with Judge Knierim as to whatever we could do that was necessary but we ourselves have faced a significant reduction as it results in decisions this year and the hiring freeze that is moving forward, so I don't think there's any funds that we would have to assist.

REP. FOX: Now you are the courts that handle probate court appeals.

JUDGE QUINN: That's correct.

REP. FOX: And how significant a caseload is that would you estimate?

JUDGE QUINN: I'm sorry I don't have the figures but I don't think it's a great deal of cases. Most of them, as you know, are resolved before they come up, even in the case of appeals many times parties are able to work them through and reach a resolution before they come to us.

REP. FOX: Thank you. Are there any other questions for Judge Quinn?

Thank you.

JUDGE QUINN: Thank you very much.

REP. FOX: Next, switching back to members of the public, Tom Behrendt from Connecticut Legal Rights Project, he will be followed by Russ Morin, then it will be back to Judge Russell Kimes and then Toni Boucher.

Good afternoon.

SB141 HB6626
SB576 HB6627
HB6027 HB6629
HB6385 SJ63

TOM BEHRENDT: Good afternoon, Senator McDonald, Representative Fox, members of the committee. I am Tom Behrendt testifying on behalf of Connecticut Legal Rights Project. I had the privilege of serving on the Judiciary's Conservator Revision Committee, chaired by Judge Killian. I also have some background from years and years ago as a member of New York's Bars Committee that studied and ultimately drafted that state's current statutory scheme governing guardianship. Some of the bills under consideration today unfortunately threaten to turn back some of the recently enacted reforms such as the

conservatorship revisions enacted in Public Act 07-116, which is held up nationally as a model statutory framework for guardianship. On the other hand, there are indeed some promising new proposals on the agenda which we support. First of all I want to speak to a glaring omission that was mentioned by Judge Killian in his testimony. Looking over all the bills before the committee to assure professionalism and avoid ethical and potential conflicts of interest, probate judgeships must be full time positions. The current system under which probate judges continue the private practice of law while their fellow attorneys and colleagues serve as attorneys, administrators and conservators in probate proceedings undermines the office and the public perception of judicial independence and impartiality. We agree with arguments that have been made eloquently before this committee in past years by Judge Killian today, as well as with numerous statements and position papers from national groups. We need to mandate that judgeships be full time. We do agree with Governor Rell and others who mandate that future candidates be attorneys admitted to practice law in the state of Connecticut with ten years experience. Regarding the two bills that emanate from both the governor's office and Judge Knierim's office, we just feel very strongly that the issue of court consolidation has been studied for years, if not decades, and that the time is now to consolidate the courts, to drastically cut down the numbers of courts. It's -- frankly it's my view that it's absurd at this juncture to convene yet more study groups to defer the inevitable. Subject has been studied for decades and it's just we've been hanging onto an archaic and erratic system at great financial cost and we need to move forward on this. If I can just have one more moment, we are strongly opposed to Section 12

of Bill Number 6027 which would create a probate appellate docket. This would expand and further entrench a wasteful and troubled court system and it is simply a bad idea. It may be that it comes from concern to justify the ongoing employment of current members of the probate assembly and persuade some judges to support voluntary court consolidation, but it is froth with problems and it would make it extremely difficult to bring about real court reform, even serving as perhaps a poison pill that would thwart future proposals for court reforms. I have written about going into our position on a number of other statutes on today's agenda and I would refer you my written testimony for that.

Thank you.

REP. FOX: Thank you very much for your testimony covering some bills that others have not, so it is helpful.

Any questions?

Representative Hetherington.

REP. HETHERINGTON: I think your point about permitting to judges to conduct independent practices is well taken, but I wonder if in the absence of any other changes in the system, is it realistic to think that you can have qualified people serve in the courts, the smaller courts, where the level of compensation is such that it just isn't adequate if you don't allow them to practice law at the same time.

TOM BEHRENDT: Well, I think that is a good point, but assuming that indeed we move to a consolidated system with, whether its 36 as proposed by Governor Rell, or a somewhat higher

number as referred to by Judge Killian a little while ago, that should allow the appropriate.

REP. HETHERINGTON: So, you would not impose that restriction -- that is on an independent practice in the absence of other reforms, or other changes in the system. Is that correct?

TOM BEHRENDT: No, that doesn't characterize our position. I think we feel strongly that given the fundamental rights and liberty issues that are at the heart of many of our probate proceedings. Very important and sensitive issues that the judges need to be free of any perception of conflicts of interest and ethical concerns and the judgeships need to be full time positions in every district.

REP. HETHERINGTON: Okay. Thank you.

Thank you, Mr. Chairman.

REP. FOX: Thank you. Are there any other questions?

Thank you.

REP. HETHERINGTON: Thank you very much.

REP. FOX: Next is Representative Russ Morin here?

REP. MORIN: Good afternoon, Representative Fox, Senator McDonald, members of the Judiciary Committee. I'm Russ Morin. I'm the Representative from the 28th in Wethersfield. I'm very pleased to be here and I will be brief because I see how busy you all are. I'm here to testify on behalf and in strong support of Senate Bill 650, which would allow us to finally prepare and allow for a trust for the care of animals, and I understand that in the scheme of some of the very important things

Thank you, Senator.

SEN. BOUCHER: Thank you.

REP. FOX: Now we have Judge Russell Kimes.

JUDGE KIMES: Thank you, Senator McDonald, Representative Fox, members of the Judiciary Committee. I am Russell Kimes, a judge of probate from the district of New Canaan. I would like to address the governor's proposal 6385 and the Probate Court Administrator's Proposal 6027. My advice to you today is ask to see the numbers. The governor has recommended a return to a self-funded probate court system. This is an excellent recommendation. However, to achieve this instead of closing the regional courts that currently drain $2.5 million a year out of the fund, she has recommended closing 81 small local courts and making the remaining 36 courts into large regional courts, while still retaining the existing regional courts. Her budget highlights say this will save $9 million a year. My advice to you is to ask to see those numbers. The problem with the governor's proposal is that the small courts are not losing money. Small courts don't lose money, the loses come from the regional courts. They collect no fees and cost $2.5 million a year and from four of the big city courts that have also lost money in recent years, albeit, nowhere near the loses in the regional courts. The obvious solution is to close those costly regional courts and transfer their functions back to the local courts and the Superior Court. There had been no results based accounting evaluation of the effectiveness of these courts and therefore there is no evidence they are anything more than an unnecessary costly duplication of the DCF, the Superior

Court and the Child Protection session. Again, ask to see those numbers.

6027 also attempts to address the probate court's financial problem. This bill contains provisions that would allow the Probate Court Administrator to micromanage the 117 local courts and completely remove any managerial functions from the judges. This will not result in any cost reductions because the control of costs will be removed from the judges who know where the savings can be achieved and replace it with a politically motivated system of control. And because the bill contains a new fixed compensation structure for the judges, it will result in an aggravation of the current financial problem because it is unlike the current system which reduces the judge's compensation when the income of the court goes down. The income of the judges will now be fixed and will not go down when the incoming individual courts goes down, which is surely going to happen as a result of the economic crisis in the real estate and stock market.

Again I say, ask to see the numbers. There were several proposals made to the assembly but all were rejected. These included an across the board reduction in all judge's compensation, a proposal to lift the current cap on charges on an estate, a proposal to lift the current cap on fees charged for approving accountings and finally a suggestion that the Commission on Child Protection should be providing the probate court judges -- attorneys, excuse me. Since several members of this committee are new, I've attached the recommendations of your Program Review Investigation Committee and OLR report on the cost of the administrator's office, the budget for the regional courts and the most recent

numbers available on the individual probate courts. Again I ask that you ask to see the numbers.

Thank you.

REP. FOX: Good timing. Thank you.

Are there any questions?

Representative Spallone.

REP. SPALLONE: Thank you, Mr. Chairman.

Thank you, Judge, for your testimony.

Judge, do you have a position, for the record, on the probate court administrator's proposal that was subject to a vote by the Probate Assembly concerning consolidation working groups I guess we'd call them, or study groups, as opposed to the governor's plan or to the status quo.

JUDGE KIMES: I believe that is an excellent recommendation. The study committee has looked fairly evenly made up with representatives from the towns as well as the judges and some other players and the stakeholders, that's the word.

REP. SPALLONE: Thank you very much.

Thank you, Mr. Chairman.

REP. FOX: Thank you.

Also, your Honor, do you have a position -- one of the governor's -- a couple of the governor's recommendations, one was that the courts be open 40 hours a week. Would you like to discuss that?

JUDGE KIMES: Certainly my court is, and most of the courts are, in the small towns where they -- the town hall isn't open that long, or in the court -- on the towns where their business just isn't there, it would be foolish to be open for 40 hours, but she wants to consolidate to a very small number, so it would be I'm sure required.

REP. FOX: Okay. Well, thank you very much.

Any other questions?

Thank you.

Next is Judge Diane Blick. She will be followed by Sandra Sherlock-Wheel, followed by Veronica Halpine.

JUDGE BLICK: Good afternoon, Representative Fox, Senator McDonald, Representative Lawlor. As judge of probate for the towns of Kent, Litchfield, Morris and Warren, I appear today in opposition to SJ Number 63, the resolution which proposes an amendment to the Constitution to eliminate the probate courts and in opposition of HB Number 6626, transferring the jurisdiction of contested probate matters to the Superior Court. A few scenarios as to why I feel the way I do: last week I had an 83 year old woman come to my court. She had serious concerns about her 86 year old neighbor who was currently in a nursing home after being discharged from a hospital stay. The gentleman had no family available who could help him, but the nursing home had him sign some papers, he couldn't remember what the papers were, but he was now told he could just go home. This caring elderly woman stated he has good days and bad days, but he certainly was in no condition to go home alone to an empty house. Another scenario, grandparents come to my

experience the valuable professional work done by the probate court when handling these cases. I shudder to think what the parties involved in these cases mentioned would have had to go through had these matters been handled in the Superior Court where everything is so much different, more complex, more open to the public and much more intimidating. There is absolutely no reason to have jurisdiction and contested probate matters transferred to the Superior Court. Those matters are currently heard in an efficient and timely manner by probate judges who are professional and specialists in probate law. To further clog up the Superior Court system with such cases would do an injustice to the people we serve and cause them additional expense and hardships. Probate courts have a specific purpose, they serve their communities and their constituents well. I urge you not to support FJ 63 nor HB 6626.

Thank you.

REP. FOX: Thank you very much for your testimony. Are there any questions?

Thank you.

JUDGE BLICK: Thank you.

REP. FOX: Next is Sandra Sherlock—is it White

SANDRA SHERLOCK-WHITE: Yes

REP. FOX: Yeah, it was spelled wrong. Okay.

Thank you.

HB 6027
HB 6385

SANDRA SHERLOCK-WHITE: Good afternoon, Representative Fox and other members of the Judiciary Committee. Thank you for allowing me

to testify on the matter of Connecticut's probate courts, specifically Bill 6027 and 6385.

My name is Sandra Sherlock-White. I am former chair of the Connecticut Bar Association Elder Law Section, and adjunct Professor of Law at the University of Connecticut Law School where I teach elder law and an attorney practicing elder law in Connecticut for more than 20 years. I have also provided you with written testimony.

The members of the elder law section do support the continuation of the probate courts, however we also support the modernization and reform of the probate court system. Our members are in the courts on a daily basis in cases which concerns some of the most sensitive and personally important cases for many of our most vulnerable citizens. These cases include issues involving conservatorships, end of life decisions, trusts for the disabled and wills. Presently the judges who decide these highly complicated issues are not required to be lawyers trained in the law. We recommend that judges be attorneys, licensed to practice in the state of Connecticut. Presently many courts are open part time. A court that is only open for a few hours a week is not accessible and cannot deal with emergency matters. Probate courts should be open at least 40 hours per week. Probate judges are elected and campaign for this position. Many judges continue to practice law privately or in other professions. They appear as lawyers in other probate courts. These judges appoint other attorneys to represent parties in their courts and this creates an inherent conflict of interest. We support a requirement that judges be full time judges in order to eliminate this inherent conflict and to promote accessibility.

Currently each court sets it own budget, determines the number in salaries and staff and the compensation for the judge who typically takes the remainder of the fees generated by the courts. This system results in inequities and inefficiencies. We recommend that the probate court administrator's office be given centralized fiscal control to ensure uniformity and improve economic efficiencies. We also recommend that the state of Connecticut contribute to the cost of supporting the probate courts as other states do in supporting all of their courts. We do not recommend transferring jurisdiction to the Superior Courts. Presently, as you know, there are 117 probate courts in this state, we support a reduction and consolidation of these courts pursuant to a carefully considered and rational approach, specifically including the use of probate court planning committees. Geographic accessibility must be considered as the users of these courts are often elderly, disabled and indigent. We do not support the use of senatorial districts as a basis of districting. Senatorial districts often geographically divide towns, encompass long distances and are redistricted every ten years, this would create significant jurisdictional issues for our courts. The CBA urges this committee to adopt recommendations for legislation that will address the dramatic need for reform and modernization that Connecticut citizens deserve. We -- the Connecticut Bar Association would be happy to serve as a resource to this committee in making those decisions.

Thank you.

REP. FOX: Thank you for your testimony.

I've asked this question of several others with respect to what criteria should we look at in

terms of consolidating courts, essentially, is it population, is it workload, is it -- you mentioned geographical area. What does the Bar Association recommend -- or do they have any recommendations?

SANDRA SHERLOCK-White: The Elder Law Section of the Bar Association does view geographic considerations to be very important insofar as it represents whether a court is accessible or not to its users, and again these users are often elderly, disabled and sometimes indigent. And so geographic considerations are very important and the consideration that the users not be required to travel long distances. I would also presume that obviously population and demographics would be another important consideration, as well as the workload of the court. Although, again as Judge Killian pointed out, if we can afford to have some very large courts that are doing a majority of the work, if we have some smaller courts in perhaps rural areas that are very difficult to the users to go further, and then I think our section would support that sort of notion.

REP. FOX: You mentioned that you -- that the section disagrees with the governor's proposal with respect to senatorial districts and is the primary reason for that the fluctuating demographics of that district, as well as the dividing up towns because there has been some concern about that.

SANDRA SHERLOCK-WHITE: Yes, absolutely. Again that would create some long distances for the users travelling. When we looked at the senatorial district map, which we hadn't pulled out in a long time either, it became very clear that that would require some long distance travel and also the idea that a lot of our clients, you know, might be living, for example in a

conservatorship, they may be living in their town in their home and as their needs progress they may then need to go into a local assisted living facility or go to live with an adult child, in perhaps even the same towns, but then you would have that case being moved even within the same town. It would not -- I don't think it would create efficiencies in the system, because a lot of those matters are long running cases, particularly where individuals are conserved -- it can last the rest of that individual's life.

REP. FOX: Okay. Well, thank you.

Are there any other questions?

Representative Rowe.

REP. ROWE: Thank you, Mr. Vice Chairman.

Thank you for your testimony. Just to follow-up on Chairman Fox, do you have -- does the Bar Association or you have an idea as to what our numbers should be, what our goal should be? We're at 117 and it seems that we've got numbers from everywhere from five to 123, go back to more. But, not -- on the edges those are serious suggestions, but where, where do you think we ought to be in terms of numbers, roughly speaking, and how do you arrive at that figure if you are willing to give one?

SANDRA SHERLOCK-WHITE: Well the members of our section don't have a number that we have arrived at independently, and in fact really kind of look and defer to a large degree to, you know the, what would be perhaps planning committees. We do think that the planning committees could look at, you know again, including users of the system, or the stakeholders, if you will, and they could look

at that. I think the other important consideration in that is going to be the financial efficiencies. I have heard that somewhere in between perhaps no fewer than 54, perhaps no more than 60. I don't know. These are not our numbers, but numbers that might create those sorts of financial efficiencies where the system could continue to go on and not create a lot more costs. The members of our section have not been able to really analyze all the budgetary considerations here, but clearly the legislature, the judicial branch and the executive branch are going to be looking at that very closely. We are concerned again with accessibility, so too few courts would not promote that sort of accessibility. And clearly I think we do understand that many, many courts are going to be financially not feasible at this point.

REP. ROWE: So, I guess that's a little less than 117, somewhere between zero and 117?

SANDRA SHERLOCK-WHITE: Somewhere between 36 and 117.

REP. ROWE: Okay. Thanks for your time and your testimony.

SANDRA SHERLOCK-WHITE: Thank you.

REP. ROWE: Thank you.

REP. FOX: No one has yet said 151, for each representative (laughter).

REP. ROWE: There's still time, though.

REP. FOX: There's still time. Well we can talk about that one.

Thank you.

SANDRA SHERLOCK-WHITE: Thank you.

REP. FOX: Next is Veronica Halpine, followed by Suzanne Brown-Walsh, followed by Royal Stark.

VERONICA HALPINE: Thank you, Representative Fox and the members of the committee. This committee defines public service to me and I am very grateful for the work you do for protecting the citizens of this state.

There are a number of bills I am here to testify in support of, the transfer of the contested cases to the Superior Court, to the abolishment of the guardian ad litem and conservatorship proceedings. I am in support of the governor's efforts to consolidate this state and to do it now, the probate courts in the state. I support her proposition to consolidate them according to the senate districts. I am in opposition to Senate Bill 576, which is a uniform probate jurisdiction act, and I am in opposition to Judge Knierim's Section 12 of his Bill 6027, which would allow Superior Court judges to remand cases that have been taken on appeal to the Superior Court back to probate, that in my mind would be a living hell. I -- we have heard people speak today about the need to consolidate to increase professionalism of the courts. Professionalism is a kinder work than I would use for what is going on in these courts. Additionally, when we speak to maintaining the relationship that these courts have with your community, I would look around us to see the devastation that these courts have caused the citizens of this state and I would submit to you that there are many, many people that are not enamored with the relationship they are forced to have with these courts. I had the opportunity to attend a seminar at UCONN Medical Center several years

ago where they discussed death and dying and one of the organizations had taken a survey of people's experience in that process, which I thought was a bit odd because who's going to enjoy that. But their point was well taken, and that is that the systems in place for dealing with the elderly and the dying and the infirm reflect on how the rest of us -- the experience the rest of us have with that situation and probate courts make this experience difficult, expensive and painful.

I ask you to consider the transfer of contested cases to the Superior Court. If you go to the -- to hear matters in the Superior Court, is it any more important to have the businesses bringing hundreds of collection cases or the businesses that attorneys represents banks that show up at your calendar and rattle off 50 cases, are these matters any more important than to go and have cases involving your deprivation of your rights reviewed in a real court, in a formal setting. There is continued discussion about how informality is somehow beneficial in these proceedings and I again submit that it is not. Due process is about process, is about structure and is about a formality.

I also noticed that several people mentioned the number of appeals that have been taken under the new law. Again, I have to say thank you for the new law. It is a tremendous improvement and it establishes protections that we are availing ourselves of. I, myself, have taken two appeals under that statute which one of them was resolved promptly and resulted in my client being able to walk away a free man. I meant -- I would like to point out, though, that the number of appeals -- the fact that there are not many of them is because the Bar is ignoring the fact that they are required to

help someone who has been placed under a conservator file and appeal. They are required to if that person wants assistance. They are required to initiate it. The fact that these appeals don't exist, is because that help is not being given to people.

I realize I've overrun and I am starting to sound like the disclaimer on a drug ad (laughter).

REP. FOX: Not at all. Thank you very much.

VERONICA HALPINE: Thank you.

REP. FOX: I do have a question with respect to the issue of the appeals because that is something that we passed two years ago and I understand that the law is still fairly new and people are still becoming aware of it and becoming, not necessarily where you are, but attorneys in perhaps in private practice still have to go through the details of what is needed, what the changes that we made. And sometimes it takes a while for appeals to build up. I realize this is only about two years old. Do you think it will increase the number of appeals going forward as people become more familiar with the statute that we changed?

VERONICA HALPINE: I don't think so because it is for the same reasons that I don't believe that the Bar is representing people in these proceedings, even at the initial level in the way they should be. They do not view these as contested cases. They don't -- they -- in most cases stand up to the -- come to the table with a notion that they too are going to help the person get conserved. I didn't want to leave here without showing a Christmas card I got from a German lady. This lady was conserved by the North Haven Probate Court. Her court

appointed attorney offered no -- actually argued with the judge over how he had jurisdiction and my German friend here wasn't allowed to be at this hearing because the person moving to conserve her had faxed in a notice saying she didn't want to come. In these cases, was that necessary to have an appeal? No, because if my German friend's attorney had actually presented a defense and pointed out that this was someone who lived in Manhattan and Spire, Germany we wouldn't have had to have all her German relatives fly into town, we wouldn't have had the German Consulate writing a letter to the probate court asking why is she conserved in your district and put into a very depressing nursing home on the Hamden strip mall. This was a situation where the probate judge basically had the cap of the removed bottle pass over his application for conservatorship. She wasn't even in his district when she was being conserved. Nonetheless, after I got this Christmas card, because she is plainly back in Germany, the probate court of North Haven is still asserting jurisdiction over her and has recently issued a bill for $915, as just probate costs, not the cost of everyone else that was in there getting and what happened to her money, but just a bill. Almost a year later they still are asserting jurisdiction over a German citizen who has high-tailed it out of this country even. For that same reason I ask you emphatically to please oppose Senate Bill 576, because allowing these courts to have jurisdiction even if it only to inquire whether they have jurisdiction is just that waving of the removed cap that they need. They will always find that they have jurisdiction and resolve this issue in their favor and I ask that you please, attached to my testimony is substitute language for 576 and I would hope that you consider this.

REP. FOX: Thank you very much.

Representative Rowe.

REP. ROWE: Thank you. Thanks for your testimony.

Just on the last point, is there any, is there any evidence besides anecdotal evidence that, and this is in connection with 576 and letting them wave the wand is what you said, but is there tangible evidence that probate courts are going to, you know, ignore perhaps the law and just bring cases in their district?

VERONICA HALPINE: My German client -- that was a case that happened after the change in the law, and in my opinion in complete disregard for the law. Now in terms of objective evidence, I can say that what has -- I also was involved in the case Dan Gross, a Long Island man that was conserved by the Waterbury court and that court even after a Superior Court judge ruled it was an illegal confinement and freed him and allowed him to go back to New York, again two years later the Waterbury court is still holding hearings on his money. I don't know what more evidence you have than the fact that this is just happening and they are taking out-of-state people, conserving them here and then reeking chaos with their assets and basically generating a lot of expenses in probate proceedings and court appointed council, etc. in the state.

REP. ROWE: Most -- it seems that your, your speaking to us as an attorney with experience in the probate area, but your take on this issue is maybe the minority view within the legal community. You hear from the Bar Association and the lawyers I talk to don't seem to think the abolition of the probate

court system as we know it recognizing that it needs to be tightened up, would agree with your thesis. Am I correct that you are -- you are probably taking the minority -- not saying it's not right, but that you are taking the minority view. I just haven't heard this from other attorneys and if what you are saying was correct, it would seem to me that there would be a heck of a lot more groundswell on that particular area than there is.

VERONICA HALPINE: A groundswell from attorneys -- I find that the attorneys that practice in this area of law are scratching each other backs every single day and I guess I'm also confusing whether you think I take the minority position as to Senate Bill 576. I would submit that there are many attorneys in the state who have no idea that that probate jurisdiction act is out there and floating around or have seen it. We were involved with the -- when this issue was debated at the Bar, it wasn't distributed before the Elder Law community publicly, and their vote on it showed up just before the committee -- the voting members go it. So even.

REP. ROWE: Are you a member of that committee?

VERONICA HALPINE: My colleague, Marilyn Denny, is a member of that committee, of the voting committee.

REP. ROWE: Right.

VERONICA HALPINE: I am not. So I don't even think within the elder law section that this has been widely debated and one of the people that did vote on it said publicly he hadn't read it but was voting in favor of it anyway.

REP. ROWE: That never happens here. (laughter)

VERONICA HALPINE: Well, what I'm hoping that if this is a valid proposal it's not going to hurt the state of Connecticut to hold back one more year. If the courts will be a uniform act, let's see what some of the other states are doing. Let's see how California that has a system similar to ours, how they come down and vote on it. There is no need to rush in here and let's wait and see how other states adjust it, modify it, adopt it, or if they adopt it all. The particular sense that I don't think I can say or anyone in this room can say that they are the majority or minority view on this because it just hasn't been debated.

REP. ROWE: Thank you for your time.

Thank you, Mr. Chairman.

REP. FOX: Thank you.

Are there any other questions?

Thank you.

VERONICA HALPINE: Thank you.

REP. FOX: Suzanne Brown-Walsh, followed by Royal Stark, followed by Judith Hoberman.

Good afternoon.

SB650

SUZANNE BROWN-WALSH: Good afternoon, Representative Lawlor, Representative Fox, members of the Judiciary Committee. My name is Suzanne Brown-Walsh. I am testifying today in behalf of the estates in probate section of the Connecticut Bar Association and as one of Connecticut's eight uniform law commissioners in support of Senate Bill 576, an act concerning the Connecticut uniform protective proceedings

jurisdiction act. I currently chair the CBA's estates and probate section and I am the former chair of its elder law section and I practiced the state's trust and elder law for over 20 years. Before I discuss this act, and explain it, I hope, it deals with what we call conservatorships. I wanted to note that the majority of American states refer to what we in Connecticut call a conservator of an adult's person as a guardian of the person. So I want to point out that the act employs a translation definition in Section 2, sub 3 and that explains that the references in the act to guardian are meant to be conservator of the person in Connecticut. The reason for that is that it's easier to use one translation provision than to amend each and every statutory reference in the Connecticut statutes and it makes more sense since most of the attorneys and judges who will be reading this act will be doing so from other states, i.e., they will be looking for guardian of the person as opposed to conservator.

This act or bill fills three huge and existing gaps in the existing conservator of guardianship law of every state. There are no, or few, state laws facilitating transfers of guardianships and conservatorships from state to state. There are few or no state laws for simply registering an existing order from one state and another as where the incapacitated person is temporarily being treated in a residential facility in another state note that full faith and credit does not apply to such orders and there are no procedures in any state for resolving disputes over which state is the proper forum for an underlying guardianship hearing where you have people in two states asserting that that particular state is the appropriate one to hear the matter.

I am honored to continue to be a Connecticut Uniform Law Commissioner. I served for two years on the Drafting Committee of this Uniform Act, but I will tell you the commissioners were the minority players in that group. We were pleased to have observers from the National Academy of Elder Law attorneys, from AARP, the Executive Director of the National Guardianship Association and I would argue all of the leading thinkers on guardianship and jurisdiction in the country served on the committee. In addition, most, I think all but one of the litigators involved in the very famous case of Marion Glaser, which was a "granny snatching", or an interstate kidnapping and jurisdiction case, served on our Drafting Committee and we used the facts of that case to test its provisions over and over. We also had a sitting trial judge and she assisted us.

The act was approved by the Uniform Law Commission at a summer meeting in 2007, but it wasn't actually available for dissemination until late in the year. It's been endorsed nationally by the National Guardianship Association, College of Probate Judges, Alzheimer's Association and NALA and I believe some of those organizations have been -- submitted testimony in favor of the act. Since I'm out of time, I'll go very quickly.

This act clarifies the law. Existing law in Connecticut facilities "granny snatching." When the conservatorship law was changed, we went from a system of only emergency or temporary conservatorships based on location to one where the regular conservatorship statute allows for, I don't want to call them permanent because they shouldn't be, but regular conservatorship actions to be filed based on location. This act reverts to the prior law and replaces that, so you can have an emergency

matter heard based on location, but it can only be in place for 90 days and after that it lends clarity. Widespread passage of the act would, therefore, result in significant judicial economy, it would reduce waste for litigation and it would conserve the incapacitated persons affect. And quickly, let me please mention that the Bar of the Estates and Probate section has submitted testimony in favor of raised Bill 650, which is the Pet Trust Bill. We did work with Senator Boucher, Representative Hetherington and Representative Morin on that and so I want to commend you to Peter Matz' written testimony in support of that.

I would be happy to answer any questions.

REP. FOX: Thank you very much. Are there questions? If not, thank you.

SANDRA SHERLOCK-WHITE: Thank you, Representative Lawlor.

REP. LAWLOR: Next is Royal Stark. Mr. Stark will be followed by Judith Hoberman and Dee King.

SB576
HB6027

ROYAL STARK: Good afternoon, Chairman Lawlor, members of the Committee. It's my privilege to be here and speak with you today about a number of provisions on today's agenda. I am -- my name is Royal Stark, I am an attorney with Connecticut Legal Services. I am also a member of the Conservator Revision Committee. It was my privilege to serve with Judge Killian and to draft the language that became Public Act 07-116. I would be happy to answer any questions that talk about what we did in that committee to deal with the issue that the Uniform Jurisdiction Act seeks to deal with, but I'm not going to go into it right now because I have a lot of thinks I want to talk about. The official position of Legal Services is to slow

down and carefully study SB 576. It may be that Connecticut should adopt it, but that's not -- that's not a position that has a universal acclaim. Moreover, the big concern is if we do adopt it that we make sure it does no harm. I've talked to Judge Killian about this and he agrees the need to be careful in enacting this. One of the things that is not a minor problem is the use of a different term for conservator of the person. Connecticut has already a body of law that deals with guardianships -- guardianships of developmentally disabled persons and the guardianship law -- there are statutes and there are cases that deal with that, we may unintentionally obscure what the law is regarding guardians of developmentally disabled persons if we use the same term but mean something else. It doesn't make sense to me to do that simply so that people outside of the state can read our laws better. They can read the -- they can read that conservator of a person means guardian just as much as we can in this state. Additionally, there is one section of the law which gives me very great concern and it comes from my -- from my service on the Contributor Vision Committee and my knowledge of that conservatorship scheme, and that is Section nine of the bill. Section nine of the bill says that the SB 576, Sections eight through 16 give exclusive jurisdiction to conserving of -- of the appointment of a guardian, which is the conserving of the person of an individual. We already have Section 45 A650, which deals with jurisdictional requirements when conserving anyone involuntarily, whether it's a conserver of the person or the conserver of the estate. The act does not purport to amend Section 45 A650, but it will have an effect on 45 A650 and it is this kind of unintentional confusion, at best, that will reign if we pass this as is. We need

to slow down and make sure we don't unintentionally cause any harm to the probate reforms that we worked so hard to pass. This does not denigrate the hard work that went into proposing this, but it just says that we don't have an emergency situation that requires us to move hastily. So let's please slow down.

With regard to HB 6027, I need to bring up one point. I will adopt my colleagues' position on the fact that we should not have a two-tiered system of probate appeals. But the one thing that needs to be done is that if we adopt this, we need to strike from Section 12 the phrase "return day". This is an important issue for me because I happen to have recently won a case at the Supreme Court on whether or not names processed applies to probate appeals. It does not, the Supreme Court has said this for some time, but it continues to pop up as an issue and it causes a lot of time and delay in expense in the Superior Court arguing over whether or not name process or mean process applies in probate appeals. If we insert return date, we are going to create confusion all over again. This was specifically left out in the Contributor Revision Committee because we do not have a system that requires mean process to initiate a probate appeal. So again, I don't think we should have a two-tier system at all. We should continue to have Superior Court judges hear all probate appeals, but if we have it, please you need to strike "return date" from Section 12 of HB 6027.

And finally I want to say that Legal Services supports the transfer of contested cases. This is not an indictment of the work of any individual judge on any individual case, but it simply follows up on the work done in the 70's to consolidate the trial work in Connecticut into one single court, and doing so will still

allow people to enter the system through the probate court to have the user-friendliness of the probate court as their entry point, and that cases that are not contested can be resolved there, but if it becomes a contested case it will go on to a court where there are rules regarding discovery. Very clear rules about evidence, rules about procedure and it will allow for a better outcome in those cases, which ultimately may end up in the Superior Court anyhow when they are appealed.

Thank you. I'm sorry for going over.

REP. LAWLOR: No, no problem. Thank you very much.

Are there questions? If not -- oh, sorry, Senator McDonald.

SEN. MCDONALD: I'm sorry, I was just trying to follow your testimony in the (inaudible) process, could you explain specifically what the issue was before the Supreme Court.

ROYAL STARK: The issue before the Supreme Court was whether or not under the old appeal system which has been described famously by Wes Horton as bizarre and archaic was initiated through mean process or mans process and there were a number of decisions of the court that said no, but there was some conflicting appellate court decisions that said yes. And the fact of the matter is the statute just wasn't that clear and then through court decisions parts of Title 52 had been glommed on to 45A. When we sat down and the Conservator Vision Committee and changed the way in which appeals area initiated, we were mindful of this and we set up a process that was very easy to commence, user friendly if you will, not complicated and it doesn't require unlike most cases in Connecticut that you serve first and file

second. You file first and that initiates the appeal and then you serve the probate court that issued the original jurisdiction being appealed, and any other persons that are appropriate to be served so they can be heard in the appeal. That again, that is not, you know, mean process as set out in Title 52. There is no return date, although I understand that I think if you filed an appeal today in the Superior Court, you are likely to get clerks who say everything we get here in the Superior Court has a return date. So, they may have fixed the return date. But it is truly not a return date that governs when services made, when a return to service is filed, etc. And I think if you add this, I think it's drafting that will only cause problems and start the debate all over again of whether or not our new conservator -- our new probate appeals statute somehow is governed by mean process and the debate will go up again, and a lot of time and a lot of money and a lot of work has been spent over this issue. Now, you know, some of us may feel that something that generates a lot of work for lawyers is a good thing, but it is not good for our courts at this time to be bogged down and continuing debates over the procedure of commencing an appeal. Let the Superior Court get to the appeal, decide it without worrying about extraneous procedural questions. Procedure can be important. We dealt with it. This will turn us back into a previous state of confusion.

I would be happy to go into in more detail.

SEN. MCDONALD: No -- that (laughter) covered it for me. Something only a lawyer could love.

Thank you very much.

ROYAL STARK: Thank you.

REP. LAWLOR: Are there further questions. If not, thank you.

ROYAL STARK: Thank you.

REP. LAWLOR: Next is Judith Hoberman, and Ms. Hoberman will be followed by Dee King and Judge Damon.

JUDGE JUDITH HOBERMAN: Thank you, Representative Lawlor, Senator McDonald and members of the Judiciary Committee. My name is Judith Hoberman and I am chair of the Connecticut Bar Association's Elder Law Section. On behalf of the section, I am here today to testify in support of Senate Bill 576, the Connecticut Uniform Protective Proceedings Jurisdiction Act. I have practiced elder law in Connecticut for about 30 years. My first 18 years as a legal services attorney in New Haven and for the past 13 years in private practice in Hamden. In both settings, I have seen a broad array of cases both contested and uncontested that involve interstate issues. In my view, the Uniform Act provides a necessary statutory framework for protecting individuals and assisting courts and advocates who handle conservator or guardianship cases in these situations. I discussed the Uniform Act, its history, policy and purposes in my written testimony. In my remarks today I'd like to illustrate the importance of the Uniform Act by telling you that a client's case from some years back. This client spent summers in Connecticut and the rest of the time in a southern state. When I became involved in the case he had already been involuntarily conserved in Connecticut despite his attempt to contest the proceedings and now he was back in the southern state seeking to undo the

conservatorship. I was desperate for a statutory road map that would provide procedures to navigate the two states involved. Connecticut case law was not helpful, but when I read through drafts of the Uniform Jurisdiction Act that were in existence at the time, I could see that it was exactly the kind of statutory framework I was looking for. If there were uniform acts at the time of my client's case, the probate court here would likely not have had jurisdiction to fully conserve him in the first place as Connecticut was not his home state. Even if he had been conserved under the emergency section of the Uniform Act based on an acute health problem while he was in Connecticut, that conservatorship would have been clearly limited, but there was no Uniform Act at that time and there were no clear limits. And even today, our current statutes provision for non-domiciliaries are vague as to whom they apply. That's why when I hear some say that the Uniform Act expands jurisdiction, I must respectfully disagree. An act that sets statutorily defined jurisdictional requirements that must be met before a court can intervene is a first line defense for the rights of individuals. This client's case illustrates another important procedural point. His medical and social service contacts who knew about his ability to handle his own affairs were back in the southern state where he lived most of the year, yet we did not have a procedure to bring their testimony to Connecticut. The Uniform Act protects the due process rights of respondents to a full and fair hearing by providing procedures whereby testimony of those who may be most familiar with the respondent can be taken in another state by evidentiary hearing, deposition and other means. In the end, without the certainty of a uniform act, my out of state co-council

and I had to magiever a solution involving cooperation between the probate courts in both states. We were lucky the courts were willing. With council present, the judges conferred by phone and arranged for proceedings to take evidence in the southern state with notice and an opportunity to all parties to be heard. But we had to proceed without knowing whether the courts had such authority. Luckily our improvised method worked, but this took over a year to accomplish. If we had had a Uniform Jurisdiction Act at the time, I am convinced the results would have occurred more swiftly and with less cost and anguish to the parties involved.

I urge you to support passage of the Uniform Act and thank you for allowing me to testify today. I would be pleased to answer any questions from the committee. I would also just like to add since the bell hasn't rung yet that I am testifying on behalf of the Elder Law Section and although it has been mentioned before that it was rushed through the section, the section was given notice days in advance of a hearing, there was an open discussion at the meeting, there were parties who were not members of the section that, in my interest, and having an open and full discussion of this act, we're invited to speak. Sally Zanger is here today, I'm assuming she's going to testify and a vote was taken at that meeting so Ms. Halpine was not present at that meeting. I just felt that I had to clarify that point.

REP. LAWLOR: Thank you very much. I'm sorry you're name was?

JUDGE HOBERMAN: Judith Hoberman.

REP. LAWLOR: Thank you, Ms. Hoberman. I apologize I missed that in the beginning.

Thank you very much for your testimony. I don't -- let me also, by the way, apologize to not only to you but to the members of the public. There are an extraordinary number of meetings going on today and I apologize that more members of the committee aren't here. Although it is being broadcast on CTN and I do know that actually some of us legislators oddly go home and watch these things again.

JUDGE HOBERMAN: Stay up at night (laughter).

REP. LAWLOR: But, I do certainly appreciate your…

JUDGE HOBERMAN: We appreciate your time and service and I know you all will give full consideration to this bill.

REP. LAWLOR: Absolutely.

JUDGE HOBERMAN: Thank you.

SEN. MCDONALD: And by the way, some of the problems are not (inaudible) and that you've talked about (inaudible) that some of the same types of problems relating to interstate problems, so I thank you very much.

JUDGE HOBERMAN: Thank you.

REP. FOX: Dee King. Welcome.

DEE KING. Thank you. I am very computer illiterate, so if you could bear with me for one moment.

REP. FOX: While you're doing that, after Ms. King, next is Judge Patricia Damon and then Judge Michael Alvis and Judge Beverly Streit-Kefalas (I think I pronounced that correctly).

Ms. King, if you are going to play any kind of audio file, I just to want to let you know that…

DEE KING: Am I allowed to do this.

REP. FOX: I don't know. I'm happy to allow you to do it, I just want you to know that it's -- it's probably not going to be well audio, but it may not get printed in the journal for transcription purposes.

(Problem hearing the audio)(inaudible)

Why don't you just characterize the (inaudible) as best as you can.

HB6027

DEE KING: I am Carolyn Dee King, my father Daniel Gross, whom I have here on film if you go to StopGuardianAbuse.com and look up on YouTube how can this happen. My father was a victim in this state from New York, he was in a (inaudible) defined case on guardianship. I know you have a lot before you with all the bills and all the various things that you have to deal with with money. My concern is whether you have one court or 100 courts, it doesn't matter. In every court there should be a certain kind of professionalism, there should be checks and balances, there should be an oversight and there should be accountability. The right to contest whenever should be given to every person. It should not be assumed that people need to be conserved. Right now this bill, 576, which I do not -- which I oppose vehemently states in there that they want to give greater jurisdiction to the judges. You're considering at a time when the governor of our state is also questioning the ability and what the capabilities are of the current judges. I think, then, you first have to

determine in our state what is necessary and what guidelines and what rules we will follow before we suddenly give more latitude to a bunch of judges who may or may not be capable of making decisions and determinations about other people's lives. I don't definitely want to have people going over state lines and being able to say what they demanded mandated here would be successful elsewhere. My father when he was freed, went back to his home in New York. We were told he was incompetent here in Connecticut. My father lived by himself and with the protective services on Long Island saying that there was nothing to keep him there, and yet for 10 and a half months he was a prisoner in a Waterbury nursing home. I don't want this to ever happen to another person. I want to see that judges are held accountable. I want to see that there is some kind of a standard. (inaudible)

REP. FOX: Are you almost finished -- I mean if you want to go another few seconds.

DEE KING: Well, also in 6027 the act concerning probate court reforms, there is a 45 A-186 and it says that the Superior Court could reject an appeal to refer back to the probate. I don't want -- I find this disturbing. If something comes from probate and goes to Superior Court, I want it to be heard there and I want the proper standards for the law to be observed. So that's very strong.

REP. FOX: Okay. Thank you very much for your testimony.

Are there any questions?

Thank you.

Next is Judge Patricia Damon, next Judge Michael Alvis together with Judge Beverly Kefalas and they will be followed by Peter Costas, then Deborah Tedford and Judge Charles Vail, and good afternoon.

JUDGE STREIT-KEFALAS: Good afternoon. Thank you Representative Fox and members of the Judiciary Committee. Judge Alvis and I are going to share our time and hopefully our joint testimony will reflect our joint opinion. I am Judge Beverly Streit-Kefalas, probate judge for the district of Milford. I was admitted to the Bar in December 1990 and was first elected as Milford's probate judge in November 1998. In addition to working with my colleagues to establish the first regional Children's Probate Court in New Haven, I was also the temporary start-up administrative judge for the Meriden/ Wallingford and the New London Regional Children's Probate Courts. The Milford probate district serves a community of approximately 55,000 people. It is a typical Connecticut suburban community. We are not immune to drug addiction and alcoholism. The increasing needs of a growing senior population and a broad spectrum of income and educational needs and levels. I am here today in support of House Bill 6027, an act concerning probate court reforms. The probate court systems serves a critical legal need in the state of Connecticut. The majority of our matters in our probate system involve senior citizens struggling with dementia and other age related functioning disabilities, children often living in poverty and with parents who struggle to recover from or are relapsing back into drug and alcohol addiction. I thank the Judiciary Committee and the state legislature for supporting our Regional Children's Probate Courts and for the funding through the state's general fund of its $2.5 million operating

expenses. Our first court in New Haven opened nearly five years ago and it continues to excel in protecting and serving our families. It's a framework of a partnership with on-site DCF social workers and on-staff master's leveled therapists and social workers. It has been nationally recognized as a unique and successful approach to addressing guardianship of children that truly does address the best interest of the child, and its success is not only measured by the number of families that attained stability and restoration of the family structure. It is also an economic success in that we are able to maximize the financial resources by sharing the legal expertise and experience of our probate judges, our specially trained clerks and our probate court officers. With the partnership of DCF and all our staff, we immediately address the needs of families in crisis by meeting with them as they literally walk through the door. There is no delay in meeting with the families to develop an appropriate legal solution to protecting the child, but also assessing and referring families for the social service resources to get them back on their feet. We are a system that meets the needs of our vulnerable, mentally ill and mentally disabled and by addressing their legal needs in a professional, yet informal and intimate setting. When you hear the most personal challenges faced by a person with Alzheimer's or Schizophrenia and their families, it is critical that the parties to our system can disclose such needs in a confidential but informal setting. It is also noteworthy that our system is able to accommodate taking the hearing to the person and I frequently conduct hearings at skilled nursing facilities and in hospitals. Improving on the protection of respondents or conserved persons rights as you did with the recent changes to the

conservatorship statutes is a perfect example of preserving an essential system but providing appropriate improvements. We are not a system that has imposing physical structures and formalities that can often intimidate and frighten away our most needy constituents. It is the personal and professional legal process and attention that our probate system offers that allows those of us in times of need and in crisis to reach out for the best legal solution. In a guardianship proceeding, as judges we look to the best interest of the child and my heart aches when I see a parent continually fail to see or to stop the harm they do to their own child because of their drug addictions or other mental health conditions. But when a parent is able to come before me, clean, sober, employed and actively engage with her child to the point where visitation with the child can be unsupervised and increased or mom's guardianships rights reinstated, I see firsthand the success of our regional children's probate court and its ability to get the families the social and health care services they need. House Bill 6027 offers clear and effective changes to the economic and legal structure of our probate system with the necessary preservation of its best qualities of informality, intimacy and professional legal expertise and procedure.

I thank you and I apologize to my colleague, I didn't realize I was going to take that long.

REP. FOX: I'm sure Judge Alvis has something, go ahead your honor.

JUDGE ALVIS: Representative Fox, members of the committee, I have submitted written testimony in the interest of time, I would just like to hit a few of the highlights if I may. My name is Michael Alvis, I have served for the past

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ten years as East Haven's probate judge. Judge Streit-Kefalas has ably described the broad functions of the probate courts. I wish to focus on the main reason I believe the courts have been so effective in performing those functions; their accessibility to the general public, including those who do not have legal representation. My district is typical in many ways, medium in size and workload and serving the working class community. The courts intake records demonstrate how lay citizens are able to use this system. Of the persons filing new cases in my court in 2008, approximately 45 percent did so without an attorney. The percentage acting without legal council was even higher in certain critical areas of the court's jurisdiction, like child custody and guardianship. In the children's matters filed in my court last year, 72 percent of petitioners were unrepresented by council. It is important that the probate courts are so accessible because residents need our help at times of family crisis, under circumstances beyond their control. These families do not have the luxury of pondering the cost of legal representation before they should act. It is much rarer for a lay person to proceed without an attorney in Superior Court with its more formal rules and the larger probate courts of other states are much less user friendly than our own. Experienced attorneys, let alone lay people, describe how it takes them months to accomplish in some other states what they can do in weeks or even days in Connecticut. If our probate courts were more like Superior Court or the courts of other states, many Connecticut residents who might have handled their own probate matters will retain attorneys at significant expense. Any budgetary savings will be offset by a hidden shift of new legal cost to the users of the system who are, after all, tax payers. But that would not be the

worst impact, making the system less accessible will also result in cases where people should go to probate court, but don't and where citizens who try to proceed without a lawyer encounter new obstacles and delays. When a citizen cannot act quickly to help a neglected child, a developmentally disabled adult or an impaired elderly parent, the cost may be immeasurable and irreparable. Connecticut's probate judges agree that our system must change. House Bill 6027 recognizes the need to reduce the number of courts through a thoughtful process in which all stakeholders, including members of the public have a say.

I support the bill because of the produced consolidation that strikes the proper balance between budgetary considerations and the needs of the public. We must improve the probate system and make it more efficient without sacrificing its proven abilities to serve Connecticut families on a very personal level in their times of need.

Thank you very much.

REP. FOX: Thank you very much to both of you. Are there any questions?

I have one question, with respect to the children's courts, since you're uniquely in a position to evaluate them, are most of the individuals who appear before you there also representing themselves, or on behalf of DCF, or how do they come before you?

JUDGE STEIT-KEFALAS: Most of the petitioners are (inaudible). We do appoint attorneys to represent the minor child and any respondent under state law is also entitled to court appointment if they request it. But most of the petitioners which are relatives, family

members seeking guardianship represent themselves, per se petitioners.

JUDGE ALVIS: If I might just add, I think another thing our system does well is to accommodate situations which are common where some parties to a case are represented by council and others are not. I think we do a good job of not putting the (inaudible) representative party at a disadvantage and the attorneys understand that and work within the system as well to represent their clients without taking undo advantage of the fact that someone else who may not be able to afford an attorney is (inaudible).

REP. FOX: And my understanding is - in my experience it is a less formal atmosphere, it is usually sitting around a table as opposed to a court room, a Superior Court room-type setting. Is that the same as your understanding as well?

JUDGE STREIT-KEFALAS: The physical set up of our regional children's probate court is a little more formal than your local probate court, it is not literally sitting around a table. There are two tables for participants and the judge has a separate desk with chairs for the audience, but the conduct of the hearing follows the typical probate court matter, meaning (inaudible).

REP. FOX: Thank you very much. Next is Peter Costas.

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PETER COSTAS: Good morning members of the Judiciary Committee. I'm Peter Costas. I am here as an officious intermeddler as we were taught in law school. I have no official title. I (inaudible) only to my own knowledge and experience. My concerns date back to the

period of 1972 when a citizen's conference recommended that all of the trial (inaudible) be consolidated in order to achieve many of the things which we have seen happen over the last 30 years. The probate court was not included because we were told that the probate judges had so much strength in the legislature that we would be damming the bill to consolidate the rest of the trial courts where we were to improve the probate court in the proposal consolidation. Matters haven't changed. We have gotten into a lot of (inaudible) problems, but the fact of the matter is there is not a single district court. The probate courts are part of a single system, it is state-wide. I keep hearing about the fact that the towns, the accessibility, etc. But the court system is one that is throughout the state and whatever takes place in one part of the system, takes place in them all. What would be accomplished by having a merger? Number one, all judges would be legally trained. Two, all judges would be full time. Three, all judges would be subject to discipline and removal much as the superior court judges are now. Right now the only way to deal with a -- pardon the expression -- bad actor in the probate court is impeachment because they are elected officials. What else would we be doing? We'd be cutting down on the cronyism that is rampant within the system. All the probate judges and all the probate practicing lawyers know each other, and there gets to be a lot of cronyism and trading. It may be good. Maybe reduce the time that it takes to accomplish things. But the fact of the matter is that so long as we have part time judges, we have the problem that people will trade off. It's human nature. But that's what was done in order to get rid of the original group of courts we used to have in the state prior to 1948 -- I have to remember which decade we're in now. (Laughter) We had town

courts, we had civil courts, city courts and we also had the justice of the peace courts. So we had all kinds of courts out there, close to the people. But the first step to this legislature took way back in the 1950's was in fact to consolidate all of those courts' functions and one court which became the circuit court. So we then ended up with the circuit court, the common please court, the juvenile court, and the court -- the Superior Court. That system had its built in limitations because it was not particularly efficient. We had better judges in one court than in another court. The facilities in the circuit court was horrible, so the next step was a citizen's conference in 1971, 750 people, citizens of this state, showed up for a period of three days and came up with a number of recommendations including the merger of all of the trial courts into a single institution so that everything would be on an equal par. There wouldn't be better courts and lesser courts and everybody would be entitled to stay in quality of justice. The proposal went forward so that in 1974 we had the first merger taking place which was the circuit court into the common please court. Two years later we then had the second step of the merger which was to merge the common please court into the Superior Court. We now had one trial court for everybody other than the probate system. The probate court still sat off on its side. There have been since 1948, I believe, there is no less than five studies, all of recommended major restructuring of the probate court. I hear today you are going to do something. Well, you know five years ago Chief Justice Sullivan made it quite clear that he expected the court system, the probate court system, to affect structural reforms and improve their efficiency -- get rid of some of the problems we were talking about or else the system would

deal with it differently. We are here and we're hearing again now the probate assembly wants to have nine, I think its nine districts where the people would get together and decide what's good for their little geographic area. We're not a huge state. There are 23 court locations presently in existence. I submit that people don't really find it that difficult to get to the court wherever they may be called. If we try to dictate -- let's have one in every town, it's obviously an inefficient system. It's going to be resisted because there is too much at stake. For some judges, we have judges making over $100,000 a year; we have a large number making over $75,000 a year; and nobody is making less than $20,000 a year by the court system. So, it's natural if I have some source of income and in addition I have my nice perk which is really (inaudible) health insurance program and the retirement program, I don't want to see consolidation. That's against my economic interest. And while we might say that we all serve the public interest, there is an economic interest which favors the status quo in terms of all of these jobs, part-time for all of these existing judges. If we want to try and accomplish things, another way -- I listened to Judge Quinn, she is our Chief Court Administrator, and she talked about getting 70,000's of matters. There is also the uniform probate court to which there have been a number of comments. The uniform probate court was adopted in this state with some modifications would eliminate the bulk of the filings. People wouldn't have to go to court. People wouldn't have to pay the fees that are used to support the probate courts, which in turn support the probate judges. So one of the things we should be looking at one way or another is the uniform probate code. Now keep in mind that somebody's paying for this system.

I had the good fortunate, I guess in some respects, to be the trustee for my father-in-law - my mother-in-law's estate and, you know, I found myself as a trustee having to file annual reports -- $400 a year for the reports, and the total amount of money that the trust was earning was $3,000. So these costs are not inconsequential. We have been, we have costs for probate A division, which is among the highest in the United States. So we should be looking at the fact that these pieced-meal changes are not going to eliminate the problem that we had before. We've heard about the judges who exercise beyond their place and over people who are really not subject to the jurisdiction of this board, or should not have been. We've had the examples of somebody soliciting contributions from the people who appeared before him. We have had a number of other matters which were of disciplinary in the state and these are problems which will exist until there is adequate control and insurance. Now, Jim Lawlor put into plan the probate courts - children's courts. That program when I think the question was asked by one of the members of the committee has it been evaluated is not evaluated, but it was found to be number one in the United States and Connecticut had a great deal of approval for what it has done. And that model has now been stretched out. To hear that it is costing money, I think that is unbelievable. We are dealing with children and their custody and other important matters. Now there is a problem where I think the existing probate work can complain and that is the cost of handling the indigents have been increasing as the mix was being driven towards the elderly and people who are -- who do not have adequate funds to seek legal support. So I think that we should be seriously considering merging. Merger automatically eliminates many of the criticisms of the present probate court system.

And you will now have the ability to ensure that all people who are going to be running these probate courts have got to meet the standards established by the judicial nominating committees. We have to get rid of the issue of conflict. All of these things go away when we have full time judges working in a single unified court system and I urge you to consider stop gaps not being employed in an effort to drag this thing out. Sooner or later the system is going to get to the fact that you need to merge the courts so that there are not two systems of justice operating within the state. If there are places where we need confidentiality, confidentiality exists in the court system. And if we need informality, we can have informality. But that same informality is a part of the problem producing the appeals. And if we have an appeal, we now have the parties having paid the costs of the appeal, attorneys on both sides. So, this needs to be looked at better than applications of band-aids which is what I'm afraid we're attempting to do. And I do not fault the court because the court is a group of men and women who are dedicated to what they are doing and to their self interest.

REP. FOX: Thank you very much, Mr. Costas. Thank you for your testimony today.

Are there any questions? Seeing none. Thank you again.

PETER COSTAS: Thank you.

REP. FOX: Next is Deborah Tedford. Just if you could wait one second. She'll be followed by Judge Charles Vail, will be followed by Sally Zanger. Thank you.

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DEBORAH TEDFORD: Okay. Thank you, Representative Fox, Representative Wright and other distinguished members of the Judiciary Committee. My name is Deborah Tedford and I thank you for allowing me to come before you today to talk about the probate court proposal. Many of you may know I am the past president, as was Mr. Costas, of the Connecticut Bar Association, Chair of the Probate Court Task Force for the CBA and past chair of the Estates and Probate and Elder Law Sections of the Bar. Perhaps my most important contribution today, or qualification, is that I do practice in Connecticut's probate courts on a daily or weekly basis. I am in there all the time and see a number of courts and the strengths and weaknesses of the system. As you well know, there have been a number of independent studies about the Connecticut probate courts. There is the Casey Family Foundation Study, the Connecticut Bar Association's own study in May 2003 and the legislature's Legislative Review Committee's staff report in May 2005. What's interesting is the number of factors and issues that all of these studies have agreed on even though the studies all come from different directions. Consistently there is a concern that the number of courts is simply disproportionate to the number of citizens in the state and the matters that come before it and the result is, not that we have a lot of courts and easy access because sometimes with courts that are only open a few hours a week, we don't have much access. But perhaps even more importantly that the resources of the system are spread too thin and that creates problems with professionalism and other matters before it. So the reforms -- the CBA is here to urge to reforms that include increased professionalism including a legally trained and accountable judiciary. There has been a preference for appointing and not electing

probate judges because many probate judges have expressed to me a concern that the people who come before them in disputed matters or contested matters ask for favors based on the fact that someone voted for a judge or contributed to his or her campaign. It creates awkward situations and expectations from the public that perhaps are not as professional as they might be. We are looking for, or would strongly urge you, to provide for the elimination of conflicts of interest that result from judges who both practice law or practice some other form of profession in addition to that of probate judges. It's difficult to focus all of your loyalties on a job such as probate judge if you are only doing it part time and have other outside employment and time and again we see that this creates a real problem in the courts and a lack of confidence from the citizens.

If the courts were made more professional than increased jurisdiction in the courts, including the ability to order full remedies in difficult matters, just as a superior court judge can do, would be terrific and perhaps a most important significance to the citizens of our state, the way that the system is currently structured requires two trials, not one, and the expenses of two trials in order to bring a matter to conclusion. The many times people say well there's very few appeals from probate court hearings, first of all that's because most probate matters are not in contest, they are purely ministerial and secondly of those matters that are contested, many clients cannot afford to do a second trial. They have already spent all the money that they could possibly afford on the first trial and they have no real remedy for appeal.

We would also ask for increased uniformity among the courts. A real problem for the citizens and financial accountability so that the system's limited funds are spent wisely. Judge Knierim has been a tremendous leader in this matter. We have -- I've gone through in my materials some observations on the different proposals. I would like to say that we think the bill that would transfer all jurisdiction in contested matters in the probate court to the superior court may not be the best result for the citizens of our state because the matter is heard in both court systems are quite separate and distinct and if the probate courts were made more professional, we think that that would eliminate many of the problems. There is some real concern and I've had some cases where I have brought a probate-type matter in the superior court and it's been very awkward and difficult for the superior court to handle. For example, people with advanced dementia have a great deal of trouble even walking in the door of a court because they can't figure out how to get through the metal detector. The Marshall's instructions are meaningless to an Alzheimer's patient who cannot interpret what those words mean. The systems are set up with very different clients involved. There is also a time sensitivity for a number of matters in probate court, issuing a certificate -- a probate certificate so that executor's may be appointed needs to be done quickly and promptly and that's one of the strengths of our current system. Conservatorships also need to be handled very promptly with both hearings and there is the concern that if the matter were transferred to superior court, full hearings would be scheduled and then because of the conflicting priorities in that court might not be done in a timely fashion which would not be in the best interest of the citizens of our state. There have been a number of bills

proposed and we would suggest that you try very hard in your wisdom, and I'm sure you're all very wise, to try to combine the best features of these bills, to not settle on one or the other. We would suggest that you consider, since you have an opportunity to look at the Constitution, to look at the requirements for election of judges, and the fact that many of you may not be aware of this but there is an interesting provision in our statute, Section 51-1 that provides that probate judges only have authority within their districts. And unlike superior court or other judges in our state, do not have jurisdiction co-extensive with the boundaries of the state of Connecticut. This makes it difficult to move if one court has pressing business. It is difficult to move other judges in and it is difficult for anyone to deal with case flow matters as is routinely done in superior court.

REP. FOX: Thank you.

DEBORAH TEDFORD: I just -- one final sentence -- we have an opportunity before us to do more than just deal with financial issues. Our concern is that the legislature will just address the financial issues and that the other issues that the Bar consistently has brought up about the probate courts. I thank you very much.

REP. FOX: Thank you very much for your testimony.

I do have a question with respect to one of the later comments with respect to the jurisdiction of the probate judges being within the boundaries of their district, as you know many times judges have a conflict or unavailable and another judge covers that case. Is that -- how does that work?

DEBORAH TEDFORD: Well, if a judge can't hear a case and agrees that he or she can't hear a case, then the Probate Administrator has the authority to sign in another judge. But if there is a backlog or in one situation a probate judge could not, was not available for several weeks and did not ask for that, and there was no authority to bring in another judge to hear cases and matters, emergency matters that came up, had no official judge to handle it.

REP. FOX: Okay. All right.

DEBORAH TEDFORD: Those are problems.

REP. FOX: Are there any other questions? Representative Wright.

REP. WRIGHT: Thank you, Mr. Chairman. And thank you, hi, Attorney Tedford, great to see you here and welcome. Thank you for your testimony and all your great work in this field. I just have a question if you wish to address it, do you have any comments on the broad -- in broad terms on the governor's probate court reform proposal as compared with the probate court administrator's proposal.

DEBORAH TEDFORD: I think both bills have very good features. The governor's bill as I understand it calls for full time judges. In that case they are elected and I know that some probate judges themselves have expressed concern that if the districts get very large, as the governor's bill suggests, election could be problematic in terms of ethical issues raising funds to do it which is why we mentioned for you to consider at some point having appointed probate judges. We also are concerned that the senatorial districts, technically violate parts of our current statute and again, if you bear

with me I'll look up the wording of 51-1A, having written parts of the -- or a good chunk of the probate court task force report. I'm one of the few people who may have actually read this statute and picked up on that.

But that does have some -- here we go, if you read 51-1-A-c there is a provision that says that territorial jurisdiction of each court of probate shall be the probate district established for each court by statute, each town in the state shall be a probate district or a part of a probate district. If you use senatorial districts, towns are split into two and so that is problematic just from the standpoint of that proposal, and again very few people would have been aware of that when the proposal was made and I'm sure -- meaning no disrespect to the governor, I think she has many excellent ideas in her proposal. I think that you have the unenviable task of having to look at what possible probate districts might be. We certainly would not recommend senatorial districts because of a number of reasons they change frequently and that makes keeping track of probate records if every ten years the probate district changes, one is going to have difficulty knowing where to go for recordkeeping. Secondly, the probate, or the senatorial districts are established for reasons very different from those that should be used for probate districts. In our area they would not make as much sense as someone sitting down and looking what makes sense in New London county. Well, people don't like to go over the bridge to New London -- you know that well, so having a district that keeps that in mind is important. I'm sure around the state of Connecticut there are similar geographic issues, but dividing up towns is actually in conflict with part of our existing law.

REP. WRIGHT: Thank you very much for your insights based on years of practical experience and knowledge in this area and thank you, Mr. Chairman.

REP. FOX: Thank you. Are there any other questions? Seeing none. Thank you very much.

DEBORAH TEDFORD: Thank you very much.

REP. FOX: Next we have Judge Charles Vail.

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JUDGE VAIL: Good afternoon. Thank you for the opportunity to be here. My names is Charles Vail and I am the currently serving probate judge of the northwest corner probate district, District Number 100. It's a probate district that was consolidated before 2006 and it consists of the towns of Cornwall, Canaan, which is known as Falls Village, North Canaan, which is known as Canaan, Salisbury, Sharon and Norfolk. We have a population with resident in those six towns of 14,000 people and I was elected January 2007 and the first task was to deal with the residue of five pre-existing courts and bring them into one efficient court. I thought my testimony today would simply try and give you some insight into what I consider to be the critical success factors for consolidating small courts into larger entities. As I thought about this, they basically boiled down to three categories of success factors. One is to have a sufficient scale and scale is in terms of revenues and when you are dealing with a user based fee system, scale of revenue is important. You need also sufficient population to serve a critical mass of people and that territory should be however it's described, should be however based on a community, one that has some shared values and one that is appropriately

sized in terms of travel and service. I think the second critical factor is that once you have developed scale, is that you can work on the capacity issues. By that I mean capacity to hire staff who are competent, pay them competitive wages including benefits that are competitive and so that you wind up with well trained people, including the judge who is willing to devote the necessary resources to bring to bear on the matters that come before the court. The second issue of capacity is the judge's time spent on the tasks has to appropriate and there has to be sufficient renumeration to attract qualified candidates who would like to be judge, in my opinion. Availability of the -- to the user community to general public is then you are in a position to enhance your availability and the end result of this expanded capacity hopefully is a quality service and that I would define in my experience with these five towns as being available, being open during business hours, we are open 9:00 to 4:00, Monday through Friday -- Monday through Thursday, we're not open Friday because the town halls close for heat conservation purposes. Also service means to me efficiency. Our court has no backlog, paperwork is processed immediately and moved forward within a day or two to the next step and then financial sustainability is important to render quality service because courts -- my court has to hire people, pay them, use all the usual office expenses and have something left over to send to the probate court administrator, which we have been able to do. So those are the three success factors; scale, capacity and service.

I would want to mention, however, one more little sort of potpourri of things, as we move forward with consolidation. There are probate records that are going be left behind in town

halls, that's an issue. It's not an expensive issue. Recently the town of Salisbury digitized all of their records going back to 1847 for a cost of about $4,000, so that's something that should go forward in my opinion. The second issue is that as the geography of courts expand, and my court is already the largest geographic area in the state, but as we expand that and if my court were to merge with others, we need to hold open the possibility that there would be secondary locations where judges could sit, so that people wouldn't have to travel so far. The traveling distance from -- if I may just finish, from Sharon to Norfolk is 35 minutes by car and that is probably just over the speed limit, but anyway. The -- when I ask of you to think about how far you would go if you got in your car and drove 35 minutes. So accessibility is an important consideration. And finally, I would like to say that the incentives built into 6027 to encourage judges to retire by increasing their retirement plan is probably a timely thing and a useful tool and I say that to you as someone who used to be head of human resources for a large company. It's always nice to encourage people to do the right thing and to make them feel good about themselves.

So thank you for the opportunity. I'd be happy to answer any questions.

REP. FOX: Thank you, and thank you for your testimony. Judge, you are somebody who has experienced the consolidation and some of things that you have to go through to reach that point, so it is very helpful and I'm sitting here next to your senator who's making it very clear the geographical distance to the court is very important, as well. You said it's about 40 minutes now to get from the furthest point of your district?

JUDGE VAIL: Yes, the furthest point to the other furthest point, but our court is located in Canaan, so the maximum distance would be maybe 20 minutes and in a rural community, if I need to go to the doctor I have to go to Sharon because that's where the hospital is, that's where the doctors are. We have one large Stop & Shop shopping center, the kind you'd find in most suburban communities. So people in our community are used to driving to other communities to obtain a specialized service. But as this trend expands, it would be necessary, in my opinion, to have at least the accessibility of satellite offices.

REP. FOX: Okay. Is that something that you discussed, you said six towns. Is that what you have?

JUDGE VAIL: We have six towns. We have one location and its recently central, but if we were to expand beyond our borders I would hope that that location in Canaan could stay as a -- part of the week office for the judge who had jurisdiction over the larger area.

REP. FOX: Currently do all the towns contribute?

JUDGE VAIL: Yeah, by statute they are required to.

REP. FOX: Senator Roraback.

SEN. RORABACK: Thank you, Mr. Chairman. Good afternoon, Judge Vail.

Was it five years ago that we had five courts and now we have one?

JUDGE VAIL: Yeah, three years ago we had five courts, five judges, five sets of staff and

five offices that some of them were open only one day a week for two hours. That's true.

SEN. RORABACK: And now we have one.

JUDGE VAIL: Yeah, we have one.

SEN. RORABACK: And do you know, has that had an impact on the municipal budgets? Did Cornwall and Sharon and Salisbury (inaudible) are they contributing more or less to the (inaudible)?

JUDGE VAIL: They are contributing slightly more actually because on the other hand.

SEN. RORABACK: I never ask a question you don't know the answer.

JUDGE VAIL: On the other hand, they reclaimed the office space. So I had the First Selectman of Salisbury saying when are the books going to go because we need that office space. So it's a tradeoff.

SEN. RORABACK: And you think if we go to bigger districts that we couldn't necessarily assume that municipal contributions would diminish.

JUDGE VAIL: I -- you know, I would think out of the box, Senator, you might just think about reorganizing what it costs the town and how you assess those costs.

SEN. RORABACK: That's a fair point. Well anyway, thank you for taking the time. You have lived what others will likely be living in the future, so thank you for sharing your experience.

JUDGE VAIL: Thanks very much.

REP. FOX: Thank you. Next we have Sally Zanger, followed by Judge Dennis O'Brien, followed by Susan Stanton.

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SALLY ZANGER: Good afternoon, Representative Fox, distinguished members of the committee. I am a staff attorney with the Connecticut Legal Rights Project, which is a legal services organization that advocates for low income individuals in institutions and in the community who have, or are perceived as having, psychiatric disabilities. While we don't represent clients in probate court proceedings because they have court appointed council there, we frequently do assist them and their council and we represent them on appeals and I -- we've got a couple of appeals in our offices so us and Attorney Helpline that's four in the state, and I'm sure there must be a few others since the new law went into effect. We do represent them in appeals of conservatorship proceedings. We certainly hear about the problems that they have in probate court. We try to help people correct them. Tom Behrendt, our legal director, and Meredith, who also testified today and submitted testimony, worked with the diverse group of lawyers who worked with Judge Killian to draft Public Law 07-116, which repaired the conservatorship statute in several ways. So I am testifying today in support of and in opposition to several bills and I've submitted two sets of written testimony, one on about six bills and one specifically on HB 6629, which is about the appointment of guardian ad litem -- guardians ad litem. I'm here -- I feel like I'm here to protect and defend Public Act 116 which seems to be at great risk from several of the proposals before you today. I am a member of the Elder Law Committee of the Bar Association and I participate in the Legal Services Elder Group as well.

A brief history that you know that Public Act 07-116 came into being in part as a response to several terrible cases of overreaching by probate courts which conserved individuals over whom they didn't have jurisdiction. And the act had several important aspects. First, if clarified and made very explicit already existing due process protections, the right to council, including the council of one's choice and several others. It also simplified the appeals process as has been discussed earlier and it modernized key aspects of the conservatorship statute by changing the definitions of incapacity, the standards for imposing conservatorships and the duties of conservatorships. The definitions now address the person's ability to make decisions and express preferences and to function with assistance. The standard now requires that less restrictive alternatives to conservatorship be exhausted prior to the imposition of a conservatorship and they forbid the imposition of a conservatorship if a person is able to manage with assistance. Conservators are now required to promote the independence of the conserved person and to make decisions on their behalf only when required and with reference to their expressed preferences and past decisions and lifestyle choices. The result is that Connecticut has the statute that is considered a model and a state of the art conservatorship statute. At public hearings about the bill two years ago there was talk about the need for culture change and that's true. But in order to make those aspirations of that bill a reality we do need culture change and there has been some. I've been to excellent workshops, trainings and presentations given by probate court judges and I've also observed hearings where the judges have carefully adhered to the new standards,

have been scrupulous about explaining the process to the respondent and have developed their own orders to avoid using the boiler plate forms that don't do justice to the act. But I've also seen far too many reports of court appointed council that fail to even attempt to make their client's cases and far too many conservatorship orders that are boilerplate and don't take into consideration each of the duties that should be delegated to a conservator or not. Under these circumstances, it is not surprising that their bills before you that affect the probate and Public Act 07-116, in particular. And today a lot of people agreed on a lot of things, I heard people -- everybody agreed that the judges should be full time and they shouldn't be elected, and that there should be access to the courts. The judges should be qualified -- and oh my goodness. Anyway, so I'd like to first say that I strenuously oppose quickly say that I -- I will try not to repeat what other people have said Senate Bill 576, the Uniform Adult Guardianship and Protection Act. I disagree with the previous speaker who said that our current law facilities "granny snatching". It doesn't. I think there are aspects of the current -- of the proposal that really do facilitate "granny snatching" and I think it's important to note that the organizations that endorse this and wrote this bill are the ones that make money off people who are conserved. It was designed by Professional Associations of Guardians and its advanced -- is desirable because it is uniform and if it is uniform it's not as good as what we've got which is better than what's out there uniform. There is one section I think that someone already mentioned, Section 9, which on my reading appears to this repealed Public Act 07-116 and substitute the Uniform Act, which isn't as good an act. This -- the bill, the

Uniform Act doesn't recognize the distinctive nature of conservatorship in Connecticut, it doesn't incorporate and can't incorporate our definitions of the least restrictive intervention requirements, it introduces the best interest standard which is not the standard for conservatorship in Connecticut. It assumes from the first line to the last that a person who is subject to a so-called protective proceeding is going to get it. It presumes someone should have jurisdiction, a judge should have jurisdiction. It doesn't contemplate dismissing a case simply because there isn't jurisdiction, it doesn't contemplate that a proceeding could result in no appointment. It always assumes that a person will end up conserved. The question is where and by whom. When we go to court to try to figure out the meaning and intent of this not that well put together bill, they have inserted a Clause 22, something that said in applying and construing this act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among the states in an act of uniform provisions, not the rights of its citizens, not the rights of the citizens of Connecticut, but the uniformity of its laws is the main consideration and uniform is not necessarily good. There are numerous places in here and I've said it out in the written testimony where it just makes it possible for judges to take jurisdiction where they wouldn't be able to in the past.

We did submit, attached to the back of my written testimony, substitute language which deals specifically with the issue that another speaker, I don't remember which one raised about the temporary person passing through and has been moved into the temporary conservatorship. But to fix that one problem

which is a problem, all that needs to be done is to move the section on people who are non-residents, non-domiciliaries into the part of our existing probate statute that addresses temporary conservatorship and we've attached language due to that. We don't need to bring in a uniform law without having a chance to really sit and see that we aren't repealing our own, really excellent law. I think other people have mentioned so many concerns about some of the other acts. I do want to speak for just one more minute on the HB 6629, which is the law that is designed to reduce the double dipping and depletion of a states of conserved people and people who are risk of being conserved who lose a great deal of money by the appointment of a guardian ad litem on top of a court appointed lawyer or a lawyer on top of a conservator when it isn't needed. This bill is supported by Legal Services Elder Law Workgroup which is composed of lawyers from New Haven, legal assistants, Connecticut Legal Services and Greater Hartford Legal Aide. It's important to us because our focus is the right for people with disabilities. It doesn't apply to children, it doesn't apply to people who don't have a conservator or who are involved in some litigation other than a conservatorship. It is very closely tailored to just do away with this one area where it just inserts another lawyer, another person, another bill into the situation when it doesn't benefit anybody, it just takes money from people's estates.

REP. FOX: Well, thank you. Thank you very much for your testimony. Are there any other questions from members of the committee? You've covered a lot, so thank you very much.

Judge O'Brien.

JUDGE O'BRIEN: Thank you.

REP. FOX: Next is Susan Stanton, followed by Judge Deborah Pearl.

Good afternoon and thank you for making the trip today.

SUSAN STANTON: Thank you. I appreciate it. I'm Susan Stanton. I'm a private citizen. I do not have a law background, although I have been in court. I am one of those "granny snatching" cases. It was my mother's. We were not notified when the probate judge decided that he was going to appoint someone as her conservator and so the subject has been covered by other speakers so I don't want to waste the committee's time. I have to agree with Veronica, Peter and Deborah, I'm sorry for the lack of last names, but I do want to make comments as far as a private citizen is concerned and I'm sorry for the voice not being steady yet (inaudible). I support Resolution Number 63 which would eliminate the probate court. I also support 6626, 6385, 6629 and I will submit written testimony. Unfortunately I have not had (inaudible) time to review all the bills so as to be able to speak more deliberately. However, I would like to say that the probate courts operate in secrecy, under the guise of privacy. There can be distinct advantages to people being able to sit and watch other cases. I do not see any reason the Superior Courts cannot institute an appropriate privacy issue that they do in other cases. I also believe that the records are hidden from the public as well as involved parties or ones who will be involved in the process and that the probate courts do not allow people to review records of other cases

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or to compare outcomes of other cases to theirs.

I do agree that there is a (inaudible) in that the judges can and do appoint people who they are familiar with at the objection to the parties that are present and while there is a great deal of ponyism, however I also acknowledge the fact that there are judges who do a very good job in some cases and maybe not in others and that I'm sure that they are trying hard. There is no question that the courts cannot rely on fees, as many parties cannot afford the fees that are easily instigated by the court itself and the problem is that without legal council or without adequate funds, many of the people who come in front of the probate courts cannot afford an attorney. Many of the people are already dealing with enormous medical costs which are related either to the children or to the parents or to the spouse themselves. And therefore we cannot expect the courts to able to survive on these alone.

Since timeframes are not mandated, prejudices easily enter into the process especially when the public is precluded from proceedings who want to learn the process, methods and outcomes to weigh their own issues. In other words, a judge can decide when he will see you next or what he deems an emergency as compared to your request.

In my particular case, we asked for an emergency hearing. We were not seen for three months despite the fact that an operation had to be performed within literally seven days. I do not feel that a law degree necessarily makes a better or worse decision process if the Superior Court established a probate system where they could combine the advantages of the

probate system privacy and the ability to operate on a timeframe that are needed. I don't see any reason that the Superior Court with its rules, regulations, processes and procedures could not be followed. The larger systems can set up more personal settings that can accommodate probate issues and allow the public to participate as well as review the records, which are not available to them now. There are ways to cut costs, such as allowing parties to come and make their own copies at the probate court's copiers, paying for the copies and (inaudible) staff and saving their time. Now for instance only the staff has access to make copies in the courts and this may be not to annul but it has been in the courts that I have had to deal with.

Moving all of the children's and minor's issues to a separate court is a good and appropriate managerial move as it requires a different set of knowledge and professional assistance who state adult issues required. I would also want to point out to the committee that although there is a lot to be said for the experience level of the judge's staff, many of them, if not most of them, are not legally trained and cannot offer any legal advise or directives and as a result of which because of many years of having been in the staff, they make decisions based on their personal preferences or that of that particular courts. The problem with this, of course, is that there is a lack of due process. There are not witnesses called at times. The people who come in front of the judge who are not aware of laws are not given access or knowledge to which might help there case. So I would ask that in your reviews of these that you consider more the people who have had to come in front of the probate courts themselves, as well as those from the legal side.

REP. FOX: Thank you and you timed it very closely to your allotted time. We definitely appreciate you taking the time to sit here with us at the Legislative Office Building and testify.

Are there any questions from members of the committee? No.

SUSAN STANTON: I appreciate the invitation.

REP. FOX: Thank you very much.

SUSAN STANTON: Thank you.

REP. FOX: Okay. Judge Pearl, followed by Judge Secola.

Good afternoon, Your Honor.

JUDGE PEARL: Good afternoon. I'm Judge Deborah Pearl from the Ethics Probate Court. I have been a probate judge for 30 years and first of all I'd like to say that it's been a pleasure dealing with Judge Knierim as our Probate Court Administrator. He has, I think, brought together a lot of us in the Probate Assembly and we feel very trusting of Judge Knierim and the staff and the people that he works with. So we're -- I just wanted him to know that and for you to know that.

First of all I'd like to say that I support what I'm going to call the "Knierim Bill", which is 6027 on reform issues, but I do have a little bit of reservation on some of it. Section Two I think is going to be good for our system. It's going to professionalize us, that is the section that deals with central accounting and many other administrative issues. So I do agree with that. I'd like to

REP. REEVES: Okay, thank you Judge and thank you for your testimony.

JUDGE SECOLA: You're welcome.

REP. FOX: Thank you. Your honor, if I could ask you one question. I asked this of Judge Knierim, as well as Secretary Genuario. The numbers that we're talking about as we look into this year and 2010, have you had a chance to go through them as well, and are we in agreement -- I guess is the question?

JUDGE SECOLA: I think we are, yes with the numbers that Judge Knierim has presented are right there.

REP. FOX: Okay, so we know where we are starting from.

JUDGE SECOLA: Absolutely. Yes, I think that as the state's income has declined and I think we are looking at that for the probate courts, but I do think that we have a solution, an internal solution, rather than looking for money from the General Fund.

REP. FOX: Okay. Well thank you very much.

JUDGE SECOLA: Okay. Thank you.

REP. FOX: Next is Judge Diane Yemin, followed by Emma Jones, followed by Bart Russell.

Good afternoon.

JUDGE YEMIN: Good afternoon. Chairman Fox, HB 6027 HB 6385 Representative Lawlor, Ranking Member John Kissel and honorable members of the Judiciary Committee, I am Judge Diane Yemin and I have been the probate judge for the district of

Danbury for 19 years. I am the immediate past president of the Connecticut Probate Assembly and I am honored to appear before you again this year as it is a momentous time for the probate court system.

Today I am testifying strongly in favor of House Bill 6027, which is the probate assembly's strategic plan, and I also will be commenting on Bill Number 6385, which is the governor's bill. Before I discuss the specifics of the proposal, I just want to reiterate the tremendous service to the people of the state of Connecticut that the probate court provides. Coming from a big city, I must tell you that only half of my time is spent on estates, the other half of my time is spent on guardianships of minors, psychiatric commitments, guardians of mentally retarded and conservatorships. A huge portion of our time and resources are spent on helping elderly persons obtain benefits, drug addicted persons obtain services and children at risk obtain safe homes. At a very well attended meeting of the Connecticut Probate Assembly recently, the judges approved a plan by an overwhelming majority, which I was extremely pleased because, as you know, that consensus is extremely important to me and to our system. This plan was presented by fellow Danburian and your esteemed legislature, Bob Godfrey as House Bill 6027, which is our act concerning probate court reforms. Probate court administrator and the assembly work very diligently on this plan which includes five components. Number one, central accounting, which would ensure uniformity and improved efficiency. Number two, an extremely important component is the probate court planning committee. We're asking the General Assembly to establish nine regional probate planning committees charged with helping the municipalities, plans to establish

local, regional probate courts. To fit the particular needs of each community, a very tight November 15th deadline of this year for committee work would ensure that the proposed consolidation would be implemented prior to the next four year term for probate judges which would begin January 5, 2011. It is so important to have the select persons, mayors and legislatures from each region when determining the best way to bring the towns and the court districts together. This particular proposal regarding planning committees includes two powerful incentives to consolidate. Number one, a one-time financial incentive to the municipalities that participate in court consolidations in the form of a grant to their senior center equal to $2 per capita, not to exceed $50,000. And secondly, an additional retirement incentive for the probate judges and staff whose district merged. The third component is a judicial compensation and our plan would replace the existing judges compensation -- if I may continue, which is primarily based on court revenue with a more efficient plan based on workload and population. In the first year, $530,000 in salaries would be saved. In going forward, we'd have a salary formula which would correlate directly to work performed. Fourthly, the probate appeals, a probate appellate court would allow parties to appeal to Superior Court or to a special assignment probate judge and this would allow for the development of appellate authority and execute them probate matters. And fifthly, the proposal also provides the general fund to assume responsibility for indigency expenses as it has in the past. And secondly it seeks an appropriation to pay health insurance for our retired judges and staff as Connecticut's probate court system is the only state agency which has been paying for this expense through

our operating funds directly. I have great respect for Governor Rell and appreciate her interest in preserving and strengthen our court system as we have the same interest. Her plan also includes central accounting and structural reform. However, I don't agree with the senatorial districts and I will not repeat the comments made but I concur with Judges Knierim, Anthony, Killian and others that the senatorial districts do not best serve the people. My second concern about the senatorial districts is logistics in sufficient space for the courts. Most of the currently existing courts are located in small spaces and city halls. Even the largest courts are likely need major renovations where entirely new facilities in order to accommodate larger staff and workload. That is the beauty of the planning committees set forth in House Bill 6027. That these logistics can be addressed at a local level, where the most informed decisions can be made.

Overall, House Bill 6027 provides a well thought out plan for facing the financial issues at the Connecticut Probate Court System. The centralized accounting, assistance from the state in logical areas, restructuring of the judges salaries and most importantly, a mechanism from promoting consolidation of the courts which appropriately involved local legislatures and municipal officials.

Thank you for allowing me to testify and I would be happy to answer any questions.

REP. FOX: Thank you.

Senator McLachlan.

SEN. MCLACHLAN: Thank you, Mr. Chair. Thank you, Judge for your testimony and you do a fine job

in Danbury. We're very happy to have you there.

JUDGE YEMIN: Thank you, Senator.

SEN. MCLACHLAN: I think you bring to this discussion a unique perspective in you had served as the chair of the assembly, the organization (inaudible) and so I appreciate all the time that you and your peers have put into this difficult planning process. What do you think would be the ramifications if the probate courts were merged into the Superior Courts?

JUDGE YEMIN: Honestly I believe that would be a public policy disaster. Judge Quinn has already testified that they would not be able to absorb the 82,000 or so cases. Secondly, and some of my other judges have stated today, the probate courts are user friendly. People are able to come to city halls and to come into courts without an attorney and I believe that's not the case in Superior Court, which is not quite as easy to navigate. Thirdly, many of the probate hearings take place in hospitals, in nursing homes. I go to the city shelter and I don't believe that Superior Court judges would have that flexibility to handle matters in that manner. So overall, I believe to preserve the probate system because it does a wonderful job and it is a very highly regarded system, very few appeals is the way to go.

SEN. MCLACHLAN: And why does the Probate Assembly focus on judges' salaries rather than providing a plan of consolidation, that seems to be the -- consolidation seems to be the buzz word, but yet the assembly is taking a different tactic.

JUDGE YEMIN: Well, the assembly is looking at back at the recommendations of legislative program

review and investigations committee. That committee made many recommendations and many of which we have gone forward with and one of those was to reform the salary structure of the probate court system, including the clerks and the judges, to provide some kind of logical basis for the salaries. And part of our plan which does that correlates for the first time the population and the workload of each court and judge's salary with their salaries. So from this point going into the future, we would have a logical basis for salaries. And that salary structure which does, in fact, reduce some of the smaller court judge salaries overall does produce the savings to the system and may result in some consolidations of some of the smaller courts. But I think the important part of our plan, not only that the salary structures, but also is the planning part of the plan. We're not suggesting consolidating 36 courts or 52 or some number that's thrown out arbitrarily; instead we're saying we understand consolidation is something that we need to look at. We want to do it on a regional basis and allow the municipalities to actually come together in a reasoned way and look at what facilities are presently existing and see what the best way is to come together to consolidate region by region. So our plan does have that focus on salaries because that is an important component of it, in reserving our system and improving our system. At the same time, we're looking at the fifth component which is the actual regional planning committee as an extremely important one, because that is the one that will help enable the consolidation to take place in a reasoned way.

SEN. MCLACHLAN: Thank you, Judge, for your hard work on this and thank you to my colleague from Danbury, Representative Godfrey, for his leadership in the probate court reforms.

JUDGE YEMIN: Thank you, Senator.

REP. FOX: Thank you. Are there any other questions from members of the committee? Seeing none. Thank you.

JUDGE YEMIN: Thank you so much.

REP. FOX: Next is Emma Jones. Hi, good afternoon.

EMMA JONES: Good afternoon, honorable Judiciary Committee. Thank you for the opportunity to be heard. My name, as you said, is Emma Jones and I am the Director of the Probate Court Service Center in Hamden. We present thousands of relatives, guardians and grandparents who are appointed by the New Haven probate court and the regional children's court. We also represent at least 300 grandparents from an organization called Grandparents on the Move. We speak here today in opposition to the Joint Resolution 63 to amend the Constitution to eliminate the probate court and we also speak in favor of Bill 6027. I was talking to the people who are here today and we believe these are some of the people are most affected by some of the things that happen through the probate court and one of the things that they said to me is that why don't we just say to the committee that we all love the probate court and that we are the ones that receive the services from the probate court and we don't think that the probate court is broken and we would just recommend to this committee to please not fix a court that is not broken and this is from the large number of people who are being served by the probate court.

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The other thing that we said was that we thought that we should define what the issue really is and the issue is whether or not it is

Next we have Judge Edward MacAnemy and can I ask if there is anybody else who would like to testify who has not had a chance to do so.

JUDGE MACANEMY: Thank you. Good afternoon. Thank you for letting me testify today. I have already submitted some written testimony to the committee and I would like to talk about a little bit of what I've submitted. I'm here testifying in favor of the bill, Committee Bill 6027, I guess it's been referred to as the "Knierim Bill". But specifically with respect to one section of that bill is 12-H and that's the section that establishes a probate appellate session if you will. I think it's an important aspect of increasing the professionalism of the courts and also establishing within the probate system the body of probate law by decisions made by our own judges. With that being said, I have actually suggested, and I believe that the approach should be more broadly based and that which is contained in the "Knierim Bill" which allows -- the "Knierim Bill" allows as is currently established for the appellate appeals to be decided by the special assignment probate judges in the event that there is a referral from the Superior Court. What I would propose instead and what I've said forth in my written testimony is that that be made by election of the appellate as to whether or not they want to be heard by a Superior Court judge or by the probate judge, a special assignment probate judge. Again I think that that's an important thing because that will again increase the professionalism of our probate court system and also establish a body of law within the probate courts.

I'd like to also address briefly Bill 6627, which is an amendment to Section 3 of that bill which is an amendment to general statute

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JUDICIARY COMMITTEE

March 9 2009

Testimony of Thomas Behrendt Regarding the Connecticut Probate Court System:

S.B. No. 141, An Act Concerning Review of Guardian Ad Litem Fees and Expenses.

S.B. No. 576, An Act Concerning the Connecticut Uniform Protective Proceedings Jurisdiction Act.

H.B. No. 6027, An Act Concerning Probate Court Reforms.

H.B. No. 6385, An Act Concerning Reform of the Probate Court System.

H.B. No. 6626, an Act Transferring Jurisdiction of Contested Probate Matters to the Superior Court.

H.B. No. 6627, An Act Concerning Continuing Education for Judges of Probate and Certain Probate Court Procedures.

H.B. No. 6629, Act Concerning Guardians Ad Litem and Conservatorships.

S.J. No. 63, A Resolution Proposing an Amendment to the Constitution of the State to Eliminate the Probate Courts.

Senator McDonald, Representative Lawlor, and members of the Committee:

I am testifying on behalf of the Connecticut Legal Rights Project (CLRP), and am here to comment on the bills concerning the probate court system. For over 25 years, I represented clients who face conservatorship, guardianship, consent-to-medical-treatment, and civil commitment matters. I served on the Judiciary's Conservator Revision Committee, convened by the Chief Court Administrator in 2006 and chaired by Judge Killian and the former Probate Court Administrator, to draft sweeping conservatorship reforms that were enacted as P.A. 07-116. I was also a member of the New York State Bar Association Committee that studied and ultimately drafted that state's current statutory scheme, enacted in 1992, governing adult guardianship.

While I applaud the Committee for taking the lead on shepherding through reform measures such as Public Act 07-116, much more needs to be done. The culture of the court system remains problematic. Some of the bills under consideration today threaten to undo some of our recently enacted reforms. On the other hand, there are some hopeful new proposals on the agenda, and perhaps the present fiscal crisis and impending bankruptcy of the probate system will encourage the legislature to make further positive changes.

- First, there is a glaring omission, looking over the bills before the Committee, of an urgently-needed reform: To assure professionalism and avoid ethical issues and potential conflicts of interest, probate judgeships must all be full time positions. The current system, under which probate judges continue the private practice of law while their fellow attorneys and colleagues serve as attorneys, administrators, and conservators in

probate proceedings, undermines the office and the public perception of judicial independence and impartiality. We agree with arguments made eloquently before this committee in past years as well with numerous statements and position papers on the issue from national groups. Mandating that judgeships be full time will enhance the reputation of and public confidence in the probate courts. It is unfortunate that this issue is not on this year's agenda, and it is shameful and embarrassing that it is even subject to debate in Connecticut. **Judgeships must be full time positions.**

- We agree with Governor Rell and others who would mandate that future candidates for judgeships must be attorneys admitted to practice law in the state of Connecticut with 10 years' experience as a member of the bar. Even so, the Governor's proposal does not assure that we will have qualified probate judges.

S. B. No. 576, An Act Concerning the Connecticut Uniform Protective Proceedings Jurisdiction Act.

We are strongly opposed to this bill. It would undo key reforms that were ushered in with the enactment of Public Act 07-116 and similar recent legislation. This proposal is unnecessary and harmful.

Since the enactment of Public Act 07-116, Connecticut has received widespread praise for its statutory scheme governing adult guardianship (conservatorship) – it is regarded as a national model. Unfortunately, the Connecticut version of the uniform bill was prepared in haste and was not tailored to harmonize its provisions with Connecticut's statutory framework: It effectively strips away procedural protections we now have in place. We should not willingly give up current protections. The drafters and proponents of the Uniform Act (groups including the AARP, National Association of Elder Law Attorneys, and the National Guardianship Association, share a paternalistic approach and a pro-guardianship bias which is evident in the Act. While this uniform law may well remedy problems found in other states, it is woefully inappropriate for Connecticut as currently drafted.

I have attached substitute language for S.B. 576, supported by CLRP and the state's legal services programs. The substitute was drafted to address concerns raised by members of the Elder Law section of the CBA, some of whom supported adoption of the uniform law. It would afford greater protections against the imposition of conservatorships of individuals who are not residents or domiciliaries of the probate district, and it allows probate courts to appoint a temporary limited conservator in emergency situations. Unlike the present language in S.B. 576, our substitute is in keeping with Public Act 07-117. It respects and enhances – rather than weakens – Connecticut's statutory framework.

Committee Bill No. 6027 An Act Concerning Probate Court Reforms:

We are strongly opposed to Section 12 of the bill. The creation of a "probate appellate docket" would expand and further entrench the wasteful and troubled probate court system. It is simply a bad idea. While some may regard it as a clever way to justify the ongoing employment of current members of the probate assembly and to persuade judges to support voluntary court consolida-

tion, the establishment of a new appellate system in the probate courts will make it extremely difficult to ever bring about real court reform. It would serve as a "poison pill," that would thwart future proposals to merge probate into the superior court.

It is absurd to convene yet more study groups (as proposed in Section 13) to discuss potential opportunities for the voluntary consolidation of probate courts. This subject has been studied for decades. If there is one thing that we have learned for certain, it is that a group of incumbent elected officials will never willingly give up their jobs or volunteer to run for reelection against one or more incumbents from neighboring towns. We have been hanging onto an erratic and archaic system – at great financial cost – in order to protect the jobs of a number of elected judges. At the present moment in history, this is unseemly and unconscionable. Connecticut needs probate court consolidation, and we need it right now.

Governor's H.B. No. 6385, An Act Concerning Reform of The Probate Court System.

Governor Rell has proposed a thoughtful and practical plan for reform. Going to a system with 36 courts, corresponding to each of the state's senate districts makes sense. Over the years experts have agreed that we require only a fraction of the number of courts presently under operation. (There have been estimates that we need between 12 and 20 be full-time professional probate judges to handle the system's caseload.) To ensure professionalism and accountability – and ultimately to capitalize on efficiencies and savings to the taxpayers – the probate system should be part of Connecticut's unified court system. It should be integrated as a division of the superior courts. This would also rectify the probate courts' utter lack of security – a disaster waiting to happen in the courts that now preside over the most sensitive and hotly contested matters of termination of parental rights, custody, contested wills, conservatorships and guardianships. (Will we find ourselves in this room in the future listening to testimony urging enactment of costly security measures in a bill named to honor the memory of the victim of a courthouse assault?)

Whether motivated by the prospect of a multimillion dollar annual subsidy of the bankrupt probate system or by regular media coverage of abuses, Governor Rell has got it right when she said in her budget message:

> "Our [probate court] system is antiquated and broken. I am proposing an overhaul that will reduce the number of courts, improve services and increase the hours of operation. It will also save money. It's long since time that bereaved families not add to their anguish by fighting an outdated and sometimes irresponsible probate system."

S. J. No. 63: Resolution Proposing an Amendment to the Constitution of the State to Eliminate the Probate Courts.

A constitutional amendment offers the advantage of giving Connecticut the flexibility necessary to fashion a professional, efficient, and cost-effective unified court system. It would allow Connecticut to subject judges to screening and merit selection as is done with judges of the superior court. I would expect to see our most distinguished current probate judges upgraded to

STATE OF CONNECTICUT

OFFICE OF THE
PROBATE COURT ADMINISTRATOR

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To: Senate Co-Chair Andrew McDonald
House Co-Chair Michael Lawlor
Senate Ranking Member John Kissel
House Ranking Member Arthur O'Neill
Honorable Members of the Judiciary Committee

From: Paul J. Knierim, Judge
Probate Court Administrator

Re: Senate Joint Resolution 63 Resolution Proposing an Amendment to the Constitution of the State to Eliminate the Probate Courts

Date: March 9, 2009

The Office of the Probate Court Administrator strongly opposes this resolution.

This legislative session is a critical one for the Connecticut probate system. While the state's finances are being squeezed due to the economic downturn, the probate system is also experiencing declining revenue and growing expenses. The Probate Administration Fund, which has been used to sustain the system's operating deficit since fiscal year 2005, will be fully depleted during fiscal year 2010.

The Probate Assembly and this office have jointly submitted legislation in an effort to address the pressing financial issues now confronting the system. The Strategic Plan for the Probate Courts, which is embodied in H.B. 6027, will make the probate system more efficient, more uniform, and stronger professionally. The Governor has likewise submitted a proposal to restructure the probate system, the details of which are contained in H.B. 6385. Both bills are before this Committee today.

While the two proposals differ in some respects, the bills share several common features. Both would centralize the finances of the system, implement important cost controls, restructure judicial compensation, and reduce the number of courts. Most importantly, both proposals stand for the proposition that the interests of Connecticut's citizens are best served by working to strengthen and improve our system of specialized probate courts, rather than the wholesale elimination of the system.

Over the years, the legislature has assigned probate courts with the responsibility for a broad range of matters involving children, the elderly, and individuals with mental illness and developmental disabilities. It has done so because the probate courts are uniquely well suited to such intensely personal family matters. The courts are readily accessible to the communities that they serve, a quality that is perhaps best evidenced by the fact that probate judges frequently conduct hearings at hospitals and nursing homes to make participation easier for the parties. Because they are specialists, probate judges are able to develop a high level of expertise in probate matters. They approach their cases with fairness and compassion. Court staff is highly service oriented. Most cases are resolved far more quickly in the probate system than in other courts.

It bears critical emphasis that the probate courts deliver important social services to the people of our state in a very cost effective manner. In the vast majority of cases, probate courts serve to empower families to help themselves. In children's matters, for example, probate courts enable family members to assist in raising a child when a parent cannot. Without that framework, many more children would be in the foster care system, at far greater cost the states. Similarly, the vast majority of conservatorships involve the appointment of a family member to assist a relative who cannot care for himself or herself.

The state also benefits greatly from the longstanding relationship between municipalities and the probate courts. Probate courts are housed, rent free, in the city and town halls of our state. Those same communities provide financial support for the courts in the form of office supplies and equipment, telephone service, document recording, and postage. Those benefits, easily worth over $6 million annually, would doubtless be lost if the jurisdiction of the probate courts is transferred to the Superior Court.

Yet another cost effective aspect of the probate courts is the fact that the expense to the parties is typically much less in the probate courts than matters heard in the Superior Court, due in considerable part to the relative informality of the proceedings. Parties are frequently able to handle their matters without the assistance of legal counsel.

Simply stated, the probate system is worth saving. It is a vital and effective part of the safety net for Connecticut's most vulnerable citizens. The system can and should be made both more efficient and more proficient, and the Strategic Plan

demonstrates the commitment of our judges to achieving those goals. The needs and interests of our citizens demand that we strengthen, not eliminate, this valuable public resource.

Judiciary Committee
C/O Connecticut General Assembly
Legislative Office Building
Hartford, Connecticut

370 Vineyard Point Road
Guilford, CT 06437
March 8, 2009

SJ63
HB6385
HB6626

Dear Judiciary Committee members,

I offer this written testimony on various bills on the public hearing agenda with regard to the Probate Courts of Connecticut.

I was elected Judge of Probate for the Guilford District in November 1995 and have served in office ever since. During the last thirteen years, the issue of Probate Court consolidation has been aired consistently. This has allowed me to have an institutional memory over a period of years and develop a historical perspective of the consolidation struggle.

The original argument proffered for consolidating the courts was the prediction of a financial crisis, which never occurred on the timeline predicted. When the Connecticut Succession Tax was phased out, a Public Act charged the Probate Court Administrator with addressing the ways and means of finding new sources of revenue. The Probate Court system is, after all, the only judicial system in Connecticut that is entirely self-funded by user fees. The Administrator never pursued this mandate, but instead, pursued the establishment of the Regional Children's Courts, which helped exhaust the balance in the Probate Administration Fund. Approximately $2.5 million was budgeted for the children's courts in 2008.

Concurrently, the budget for the Administrator's office nearly doubled and fees for counsel for indigent persons mushroomed to approximately $4 million in 2008. This manner of runaway spending with the knowledge of a pending financial crisis supports the impression that there was maneuvering to bankrupt the system and, in so doing, mount the argument for Court consolidation.

To add fuel to the consolidation argument, a new tack emerged within the last couple of years: portraying the system as inept, broken, and destined for bust. A segment of the Connecticut Bar Association and the Hartford Courant raised the hue and cry. Part of the cry has been that the Connecticut Probate court system is unlike any other probate court system in the U.S. and that it has outlived its usefulness.

If you canvass attorneys-at-law who bring matters into the Probate Courts, you are likely to hear something very different: that these courts, having evolved over a period of 310 years, are user-friendly, extremely accessible, and deliver rapid services. The appeal rate of Probate Court decisions in contested matters is so low that these Courts must be doing something right. Rolling 117 Probate Courts into 36 courts for the sake of regionalization would invariably create a new bureaucracy not too unlike the Superior

Court system of Connecticut, which is often recognized as case-jammed, slow, and inefficient and not user-friendly. In many of the Probate Courts, fifty percent or more of users appear without attorneys. The relatively informal style of the Probate courts is highly conducive to dispute resolution and mediation.

It might be deduced that the very reason that the Probate Courts are so unique from their out-of-state counterparts gives reason to preserve them, albeit with adjustments—not wholesale reform. The clamor by a select few to regionalize the Probate Court system totally obfuscates the basic issue of how to collect funds needed to support the entire system. As noted, the system is uniquely fee-based, yet nothing has been done since 1998 to address increased user fees.

Statistics from the Probate Court Administrator's office readily show that some of the larger probate districts, such as Bridgeport, New Haven, and Hartford, are running deficits that the smaller districts are not running. The historical perspective from this indicates that the motive for regionalization has far more to do with centralization of power and control than it does a system that is allegedly broken. By consolidating smaller, wealthier districts represented by the smaller, wealthier towns, the larger city courts can gain financially. Through the creation of a proposed Probate Court system akin to the regionalized Superior Courts, entirely unfriendly to pro se parties, attorneys-at-law stand to gain new clients.

In re: S.J. No. 63: the elimination of the Probate Courts is radical and premature. No data is available to prove or even suggest that rolling the Probate Courts into the Superior Court system will provide a continuum of service or produce a cost savings.

In re: H.B. No. 6385: reform of the Probate Court system is likewise radical and premature with unproven results and costs.

In re: H.B. No. 6626: transfer of contested probate matters is yet another back-door approach to foster involuntary consolidation of the Probate Courts. The Probate Courts have been hearing contested matters since 1719.

To serve the best interests of the people of our great State who have occasion to use the Probate Courts during some of the most difficult times of their lives, the above three bills should be defeated in their entirety.

Respectfully submitted,

Joel E. Helander
Judge of Probate,
District of Guilford

TESTIMONY
BART RUSSELL
CONNECTICUT COUNCIL OF SMALL TOWNS (COST)
BEFORE THE JUDICIARY COMMITTEE
MARCH 9, 2009

- **SJ -63 – Resolution Proposing an Amendment to the Constitution of the State To Eliminate the Probate Courts**
- **HB-6027 – An Act Concerning Probate Court Reforms**
- **HB-6385 – An Act Concerning Reform of the Probate Court System**
- **HB-6626 – An Act Transferring Jurisdiction of Contested Probate Matters to the Superior Court**

The Connecticut Council of Small Towns (COST) ***opposes the above-referenced bills,*** which would undermine the viability of Connecticut's local probate courts in smaller communities, increase costs and force the mandatory consolidation of local probate courts

Connecticut's probate courts handle a multitude of matters, including: decedent's estates and other wealth transfer issues; child custody, guardianship, termination of parental rights and adoption; mental health commitments; name changes; conservatorships of elderly or incapacitated persons; interpretation of living wills; and guardianships of the mentally retarded.

Clearly, these are issues that must be addressed with sensitivity and respect. For families dealing with these issues, particularly our elderly citizens who have lived in small communities all of their lives, it is critical that they be permitted to continue to address these needs with a smaller, local probate court.

Unfortunately, the bills before this committee penalize our small town families by dramatically reducing the salaries of our probate judges and requiring probate courts to be open 40 hours a week, regardless of the needs of the community.

We are extremely disappointed that these proposals call for massive consolidation with little if any evidence that such consolidation will decrease costs and preserve critical services. In all likelihood, such proposals would cost towns a lot more than the funds that they now pay for probate court operation.

COST is also concerned that these proposals jeopardize the well-being of local people who are already in a fragile condition (usually elderly) who need personal, supportive service for the issues they normally go to the probate courts for, such as estate affairs after a loved one dies. What these folks certainly don't need is to become merely a number in a large, unfamiliar bureaucratic operation.

COST strongly supports initiatives to *encourage* voluntary regional cooperation to provide programs to meet the needs of local residents in a more efficient, cost-effective manner. As Connecticut's small towns and cities struggle to do more with less, many communities are exploring new opportunities to share resources to meet these growing needs.

However, regional initiatives do not always achieve cost savings or deliver services more efficiently, and we should be mindful of this when we consider proposals that force consolidation of traditionally local services. According to a recent study by Steve Lanza, editor of *The Connecticut Economy*, "Municipal consolidation or other service-sharing plans offer no silver bullet for the problem of costly, local public services."

However, the bills before this committee centralize the Courts into districts ranging in size from 60,000 – 97,000 in population, which would eliminate local probate courts in favor of large city probate courts. Under the proposal, towns would be required to pay the cost of a consolidated district in proportion to their grand list. This would force small towns to pay into a bureaucracy in which they had no say as to how it was operated and whether it was efficient in meeting the needs of the local, smaller communities.

COST opposes the provisions in these bills which would force consolidation of the local probate courts and, instead, urges lawmakers to look to voluntary options for reducing costs and improving the delivery of services of our probate courts.

We also oppose efforts to impose salary bands, which would significantly cut judges' salaries in our smaller communities. COST is concerned that the proposed salary bands and other issues are simply a means of forcing consolidation, rather than encouraging consolidation.

Thank you for the opportunity to testify. Please contact me at 860-676-0770 if you have any questions.

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THE VOICE OF LOCAL GOVERNMENT

TESTIMONY

of the

CONNECTICUT CONFERENCE OF MUNICIPALITIES

to the

JUDICIARY COMMITTEE

March 9, 2009

The Connecticut Conference of Municipalities appreciates the opportunity to testify on the following bills of interest to towns and cities:

S.J. 63,	**"Resolution Proposing amendment to the Constitution of the State to Eliminate the Probate Courts"**
S.B. 1005,	**"An Act Concerning the Assessment of Certain Property in the Calculation of Probate Fees"**
H.B. 6007,	**"An Act Concerning Merger of the Probate Districts of Southbury and Roxbury"**
H.B. 6027,	**"An Act Concerning Probate Reforms"**
H.B. 6385,	**"An Act Concerning Reform of the Probate Court System"**
H.B. 6625,	**"An Act Concerning the Courts of Probate"**
H.B. 6627,	**"An Act Concerning Continuing Education for Judges of Probate and Certain Probate Court Procedures"**

Municipalities are concerned about the probate system because of the important services it provides to the community. There is a strong identification and tie between probate courts and the municipalities they serve.

-Over-

A major goal of these proposals is to put the probate system on sound financial footing over the long-term.

CCM urges the Committee to draft a reform proposal in a way that does not rely on local governments to shoulder an unfair financial burden for a state judicial function.

We urge the Committee to draft a proposal that municipalities may form regional probate courts with any number of towns, and provide incentives to do so.

Further attention to these issues will result in legislation that works to the benefit of all communities, as well as the Probate Court System.

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If you have any questions, please call Ron Thomas or Gian-Carl Casa of CCM at (203) 498-3000.

Testimony of:

Joseph P. Secola
Judge of Probate, District of Brookfield
And President of the Connecticut Probate Judges
Association for Local Courts, Inc.

before the

Judiciary Committee
of the Connecticut General Assembly

Hearing on Probate Courts and Conservatorships

March 9, 2009

Senator MacDonald, Representative Lawlor, members of the Committee. Thank you for the opportunity to present testimony on the following bills: S.J. No. 63, S.B. Nos. 141 and 1005, H.B. Nos. 6007, 6027, 6385, 6626, 6627, and 6629. I am Joseph P. Secola, Judge of Probate for the District of Brookfield and President of the Connecticut Probate Judges Association for Local Courts, Inc., an organization of about 30 probate judges, who are committed to preserve the local court features of our probate system.

I am speaking in support of our beloved 300 year-old Probate court System, and its most important quality – its accessibility to the general public, who can come to their local probate court without a lawyer and without the intimidating presence of metal detectors and sheriffs. Our friends and neighbors can come to their local probate court when they need help with their estate, their elderly loved ones, their mentally disabled loved ones, and their children, any of whom maybe infirm and in need of the assistance of the local probate court; no bureaucracy, no red tape, just a clerk or judge to help.

In an age which In an age which prizes efficiency above everything else, we are constantly bombarded with this bigger is better philosophy, resulting in constant mergers, a massive federal government and larger and larger multi-national corporations, all of which cause our heads to keep spinning. We all morn the loss of the sense of community many of us had growing up; the local probate courts are one of the few community building institutions left, where we can sit down and catch our breadth in an informal and welcoming atmosphere, many times with a judge we already know and trust.

I support the following bills: S.B. 1005, which removes out-of-state property from the billing of the probate courts. Our jurisdiction was questionable and possibly unconstitutional.

I support H.B. No. 6007, which is a voluntary consolidation of Roxbury and Southbury, which has been approved by the towns.

I support H.B. No. 6627, which strengthens annual education requirements for probate judges.

I oppose S.B. Bill 141 and H.B. Nos. 6629, because we just did a massive rewrite of the conservatorship statutes and sufficient time has not passed for further revisions. We certainly do not need a revision, which takes away judicial discretion or imposes further costs on the courts.

I oppose H.B. 6626, as it destroys the jurisdiction of the probate courts by removing all contested matters to superior court. No judges need apply; only clerks.

I support some and oppose much the Governor's probate bill, H.B. No. 6385, which I will elaborate on in live testimony.

I support much and oppose some of H.B. No. 6027, the Probate Court Administrator's probate bill, which I will elaborate on in live testimony.

Lastly, I oppose S.J. No. 63, which would abolish the probate courts, which I will elaborate on in live testimony.

STATE OF CONNECTICUT
JUDICIAL BRANCH

CHAMBERS OF
BARBARA M. QUINN, JUDGE
CHIEF COURT ADMINISTRATOR

231 CAPITOL AVENUE
HARTFORD, CT 06106

Testimony of
Judge Barbara M. Quinn, Chief Court Administrator
Judiciary Committee Public Hearing
March 9, 2009

Senate Joint Resolution 63, Resolution Proposing and Amendment to the Constitution of the State to Eliminate the Probate Courts

House Bill 6027, An Act Concerning Probate Court Reforms

House Bill 6385, An Act Concerning Reform of the Probate Court System

House Bill 6626, An Act Transferring Jurisdiction of Contested Probate Matters to the Superior Court

Good morning Senator McDonald, Representative Lawlor and members of the Judiciary Committee. My name is Barbara M. Quinn, and I am the Chief Court Administrator. I am here today, on behalf of the Judicial Branch, to talk about some of the Probate Court bills that are before you. Specifically, I will address Senate Joint Resolution 63, *Resolution Proposing an Amendment to the Constitution of the State to Eliminate the Probate Courts,* House Bill 6027, *An Act Concerning Probate Court Reforms,* House Bill 6385, *An Act Concerning Reform of the Probate Court System* and House Bill 6626, *An Act Transferring Jurisdiction of Contested Probate Matters to the Superior Court.*

As you may be aware, the Judicial Branch's role with regard to the Probate Court system is to provide limited oversight. The Chief Justice is responsible for appointing the Probate Court Administrator. In addition, the Judicial Branch

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has a fiduciary relationship with the Probate Court system. The Chief Court Administrator is required to review and approve the Probate Court Administrator's budget each year, and must authorize throughout the year any additional expenditures from the Probate Court Administration Fund. We have witnessed the steady depletion of Probate Court Administration Fund over the past several years. This depletion is the result of two things: (1) increasing expenses for the system that are outpacing revenue, and (2) the removal of $15 million from the fund during the budget crisis 5 years ago. The financial crisis has reached a critical point. Last fall it was projected that the Probate Court system would be bankrupt in 2010; recent projections show a deficit even sooner than that. But regardless of exactly when it will run out of money, the Probate Court system, in its present configuration, cannot sustain itself. A solution to this problem must be enacted this year.

House Bill 6027, ***An Act Concerning Probate Court Reforms***, and **House Bill 6385**, ***An Act Concerning Reform of the Probate Court System*** both propose solutions to the crisis, and both these solutions would entail very significant changes to the way the system operates. There is no doubt that change of the magnitude contemplated by these bills is necessary. We appreciate the hard work that the Probate Court Assembly has done to arrive at the plan detailed in **House Bill 6027**, and believe that setting up a process for reducing the number of probate courts would allow input from those who have the most knowledge of the system – the judges themselves. However, we recognize that the situation needs to be resolved in a very short timeframe. In fact, based on new information made available by the Office of Policy and Management, there will apparently be a shortfall of $4 million dollars during the next fiscal year. This was not previously anticipated. It further emphasizes the need to create a significantly revamped Probate Court system that can live within its means.

I am aware that discussion on this very important subject is ongoing and that further work is needed to arrive at whatever proposal will ultimately be enacted. Please be assured that the Judicial Branch will be available to assist in any way, should you believe we could be helpful.

The Judicial Branch is opposed to both **Senate Joint Resolution 63,** ***Resolution Proposing and Amendment to the Constitution of the State to Eliminate the Probate Courts*** and **House Bill 6626,** ***An Act Transferring Jurisdiction of Contested Probate Matters to the Superior Court,*** because of the significant impact those proposals would have on the Branch.

Abolition of the Probate Courts would mean that every one of the approximately 82,000 matters they handle each year would come to the Superior Court. Mandating the transfer of all contested probate matters to the Superior Court would mean that a very large portion of those cases would move to the Superior Court. The Judicial Branch simply cannot absorb this additional workload. We could not have done so under the best of circumstances, and we certainly cannot do so at a time when we are facing likely reductions in our workforce. In addition, we believe that the Probate Courts continue to play a valuable role. For over 300 years, they have assisted innumerable families and individuals in resolving the most delicate of issues. They have the experience and expertise, the value of which should not be underestimated. For these reasons, we would ask the Committee **not to act favorably** on ***Senate Joint Resolution 63*** or ***House Bill 6626.***

Thank you for the opportunity to testify.

TESTIMONY

OF

THE HONORABLE DEBORAH M. PEARL

PROBATE JUDGE, **DISTRICT OF ESSEX**

TO

JOINT COMMITTEE ON JUDICIARY

PUBLIC HEARING

March 9, 2009

Senator MacDonald, Representative Lawlor and distinguished members of the Judiciary Committee. My name is Judge Deborah M. Pearl and I have been probate judge in the Essex Probate Court for 30 years.

Senate Joint Resolution No. 63 RESOLUTION PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE STATE OF ELIMINATE THE PROBATE COURTS

OPPOSE IN ITS ENTIRITY. Connecticut Probate Courts offer the citizens of the State of Connecticut personal attention to all matters relating to probate issues These probate issues involve settling the estates of deceased person, jurisdiction over trusts, appointment of guardians for persons with mental retardation, appointment of conservators of the estate and person, appointment of guardians for minors, adoptions and many other matters involving critical personal problems for our citizens.

R.B. No. 1005 AN ACT CONCERNING THE ASSESSMENT OF CERTAIN PROPERTY IN THE CALCULATION OF PROBATE FEES.

OPPOSE Section 1.(b)(4) which said section allows a probate fee of 1 per cent to be charges against non-solely owned real estate Non-solely owned real estate is already being charged a probate fee as part of Section 1 (b) (2) This .1 per cent additional charge should be eliminated from the probate billing statute

SUPPORT Section 1.(b)(5) which essentially removes out of state property from the basis of determining probate billing

Committee Bill No. 6027 AN ACT CONCERNING PROBATE COURT REFORMS.

SUPPORT the bill with the following comments:

SUPPORT Section 2 with some reservation I believe all these additional regulations would help professionalize the probate court system as a whole My reservation comes with the enormous change these new regulations pose without some idea of what it will cost the system to implement. I agree with concept of the specific changes outlined in Section 2 (b) (1) but suggest this committee require the probate court administrator to provide a detailed plan costs associated with said implementation

SUPPORT the CONCEPTS of Section 10, Section 11

SUPPORT with one change Section 13 Section 13 (2)(G)(c). Due to not only the complicated nature of the make up of the Probate Court Planning Committee membership as well as the task of acquiring and developing such diverse membership opinions the date of reporting (November 15, 2009) to the joint standing committees of the General Assembly having cognizance of matters relating to the judiciary is much to soon and can not possibly allow for full discussion and participation. Change the date of reporting from November 15, 2009 to June 15, 2010.

Governor's Bill No 6385 AN ACT CONCERNING REFORM OF THE PROBATE COURT SYSTEM.

OPPOSE IN ITS ENTIRITY

R.B. No. 6626 AN ACT TRANSFERRING JURISDICTION OF CONTESTED PROBATE MATTERS TO THE SUPERIOR COURT.

OPPOSE IN ITS ENTIRITY

TESTIMONY OF JUDGE RUSSELL A. KIMES, JR. TO THE JUDICIARY COMMITTEE, MARCH 9, 2009.

Senator MacDonald, Representative Lawlor, members of the Judiciary Committee:

I am Russell Kimes, Judge of Probate for the District of New Canaan. I would like to address the Governor's proposal, House Bill 6385 and the Probate Court Administrator / Probate Assembly bill, House Bill 6027. My advice to you today is **"ASK TO SEE THE NUMBERS!"**

H.B. 6385: The Governor has recommended a return to a self-funded probate court system, an excellent recommendation. However to achieve this, instead of closing the regional courts that currently drain 2.5 million dollars from the Fund every year, she has recommended closing 81 small local courts and making the remaining 36 courts into large regional courts, while still retaining the existing regional courts. Her budget highlights says this will save $9 million dollars a year. My advice: **ASK TO SEE THE NUMBERS!**

The problem with the governor's proposal is that the small courts are **not** losing money. The small courts don't lose money. The losses come from the regional courts that collect NO FEES and cost the state 2.5 million dollars a year and four of the big city courts that also have also lost money in recent years, albeit nowhere near the losses of the regional courts . The obvious solution is to close these costly regional courts and transfer their functions back to the local courts and the Superior Court. There has been no results based accounting evaluation of the effectiveness of these courts and therefore no evidence that they are anything more than an unnecessary costly duplication of DCF and the Superior Court Juvenile and Child Protection Session. **ASK TO SEE THE NUMBERS!**

H.B. 6027: House Bill 6027 also attempts to address the probate system's financial problems. That bill contains provisions that would allow the Probate Court Administrator to micromanage the 117 local probate courts and completely remove any managerial functions from the judges. This will not result in any cost reductions because the control of costs will be removed from the judges who know where savings can be achieved and replace it with a politically motivated system of control. And, because the bill contains a new fixed compensation structure for the judges it will result in an aggravation of the current financial problem because, unlike the current compensation formula that reduces the judge's compensation when the income of the court goes down, the income of the judges will now be fixed, and will not go down when the income of the individual courts go down, which they are sure to due as a result of the devaluation of the real estate and stock markets. My advice: **"ASK TO SEE THE NUMBERS!"**

Alternative Proposals: Several proposals were made to the Probate Assembly but rejected. These included:

1) An "across the board" reduction in all judges' compensation;

2) A proposal to lift the current cap on the charges to an estate;

3) A proposal to lift the current CAP on fees charged for approving accountings; and finally

4) The suggestion that the Commission on Child Protection should be providing the probate attorneys.

Since several committee members are new I have attached the recommendations of your Program Review and Investigation Committee, an OLR Report on the cost of the Administrator's Office, the budget for the regional courts and the most recent numbers available on the individual probate courts.

Again I recommend that you ASK TO SEE THE NUMBERS and thanks for listening.

Alternative Proposals:

1) An "across the board" reduction in the judges' compensation through a reduction of the present maximum compensation which presently is set at 75% of a Superior Court judge's salary. A simple reduction of the cap to 60% of the superior court judge's salary would reduce the system costs by over a million dollars and still allow $88,066 in compensation for the 13 part-time, big city court judges.

2) Another proposal was to lift the cap on the fees charged to estates over $4.7 million. An increase of one tenth of a percent would raise over a million dollars. An increase of a quarter of a percent would raise $6 million of additional revenue.

3) A third proposal was to raise the cap on fees for trust accountings that presently stop at $750 for trusts with assets over $375,000. If the fees continued beyond $375,000 cap and stopped at $2,275 the courts could raise an additional 2 million dollars.

4) Lastly, there is provision in 6027 for an appropriation from General Funds for costs of indigent cases. Next to the regional courts and insurance, the fastest growing costs have been fees to the attorneys that the law requires we appoint in every children's, elderly and mental illness case. The cost of these attorneys was over $2 million last year. If the Commission on Child Protection were charged with providing these attorneys in Probate matters as they are in Superior Court matters that cost should be reduced.

Executive Summary

CONNECTICUT PROBATE COURT SYSTEM

With more than a 300-year history, the Connecticut probate court system is one of the oldest in the nation. Since 1850, probate judges have been elected officials serving the voters of the towns comprising their respective probate districts. Currently, there are 123 probate judges serving four-year terms.

The traditional probate court function is the administration of decedents' estates or "probating", which is the process of proving that a will is genuine and distributing the property. The legislature has expanded the probate court jurisdiction through the years. Probate courts now handle a variety of matters in addition to decedents' estates such as: conservatorships; children's matters including guardianship and temporary custody, termination of parental rights, and adoptions; commitment of mentally ill children and adults; guardianship of persons with mental retardation; and name changes.

The probate court system was structured to be self-supporting without assistance from the state's general revenue. The towns that are served by a probate district have a financial obligation to provide court facilities, but the balance of the funding should be provided solely from court fees that are set by statute. The probate court administrator, appointed by the chief justice of the state Supreme Court, has general oversight of the probate system.

For years, various groups have examined the structure and operations of the probate system with recurring themes but differing results. Several operational changes have been implemented but the probate courts remain a separate and distinct court system retaining administrative and fiscal autonomy.

On April 11, 2005, the Legislative Program Review and Investigations Committee voted to undertake a study of the state's probate court system. Among the committee's findings:

- The existing 123 probate courts, to date, have collectively generated sufficient gross receipts to cover their operating expenses. The probate court system at present is self-sustaining. Based on a variety of assumptions, the 123 probate courts as a whole will continue to generate sufficient gross receipts to cover their basic operating costs through 2010. However, growing expenses in the upcoming years will mean less income going into the Probate Administration Fund for other system costs. In particular, the health insurance costs and the inclusion of indigent costs in the Probate Administration Fund are two factors impacting the stability of the probate fund.

- Although the judges' compensation was set by statutory formula to address disparities in workload, the present system still produces considerable variation among the individual judges' compensation.

Executive Summary

- The total operating expenses for the Office of the Probate Court Administrator demonstrated a modest growth between FY 2000 and FY 2003 but increased substantially from FY 2003.
- Initial steps have been taken to expand the regional children's probate courts without an implementation plan. In addition, there has been no itemized budget of the anticipated costs and impact on the Probate Administration Fund.
- Recent legislative changes regarding the calculation of probate fees for decedent estates may have resulted in an unintentional impact.
- Overall, the judges seem to be generally satisfied with the support services provided by the probate administration staff. However, the level of satisfaction and dissatisfaction with the management of the Office of the Probate Court Administrator is closely divided.
- The majority of probate attorneys responding to a program review survey have a positive opinion regarding the Connecticut probate courts. However, 57 percent of the attorneys indicated they experience major differences among the courts. The public hearing testimony and survey comments received by the program review committee suggest inconsistent policies and practices among courts.
- The hours of operation for the probate courts vary widely. There are no guidelines or regulations to address court personnel issues such as compensation levels or training.
- There are statutory provisions in place which have not been enforced by the Office of the Probate Court Administrator. The administrator's enforcement authority is somewhat limited by the fact that probate judges are elected officials. A different enforcement mechanism may be necessary if non-compliance does not rise to the level for referral to the Council on Probate Judicial Conduct.
- Voluntary consolidation of the probate courts is reasonable given the need for stronger financial accountability along with evidence of workload inequities in the current probate districts.

RECOMMENDATIONS

1. **The Office of the Probate Court Administrator, in consultation with the executive committee of the Probate Assembly, shall obtain the services of an independent professional financial consultant to develop a mechanism for judicial compensation taking into account the health insurance and retirement benefits provided to probate judges under current law as well as the time and skills reasonably necessary to perform judicial duties. A final report shall be submitted to the Judiciary Committee no later than September 1, 2006. Any changes requiring statutory revisions shall be proposed in the 2007 legislative session.**

2. The costs related to indigent cases shall be paid from the state's general revenues.

3. Not later than May 31, 2006, the Office of the Probate Court Administrator shall submit to the committees of cognizance of the General Assembly a written report on the experience of the regional children's probate court in New Haven.

   The Office of Probate Court Administrator shall develop a written implementation plan, in consultation with the Department of Children and Families, identifying the possible probate districts that may be considered for additional children's probate courts pursuant to P.A. 05-225. The plan will describe the selection process for participating towns as well as a process for establishing the towns' desire to participate. The plan will also outline anticipated costs based on the experience of the regional children's probate courts already in place, describe the roles of those other agencies involved in the proposed court initiatives such as the Department of Mental Health and Addiction Services and the Department of Children and Families, and indicate whether those agencies should be financially contributing to the operation of these proposed courts who are benefiting their clients. No additional regional children's probate courts shall be established beyond the two existing ones until the written implementation plan is submitted to the committees of cognizance of the General Assembly.

4. The growth in the Office of the Probate Court Administrator's operating budget shall be capped at the previous year's growth in the Probate Administration Fund. The independent audit of the Probate Administration Fund shall be submitted to the legislative committees of cognizance.

5. The Office of the Probate Court Administrator shall submit to the Probate Court Assembly for approval minimum standards regarding hours of operation and staffing. All probate courts shall be open pursuant to these standards, and staffing standards should include consideration of necessary vacation time, sick time and personal days. Enforcement of these standards shall be administered by the Office of the Probate Court Administrator.

6. No later than January 1, 2007, the Office of the Probate Court Administrator shall develop and submit to the Probate Court Assembly for approval salary standards for the various probate staff positions.

7. The Office of the Probate Court Administrator, in conjunction with the Connecticut Association of Probate Clerks, shall develop a mandatory training program for probate clerks no later than September 1, 2006. This training should insure that consistent standards be developed and implemented. Probate clerks should be given paid time for their participation in continuing education and the cost of the training be covered by the probate court.

8. The Office of the Probate Court Administrator must pursue all available enforcement options to ensure compliance with existing statutory mandates.

9. The Office of the Probate Court Administrator, in consultation with the Probate

Assembly, should examine the issue of enforcement authority for situations that do not rise to the level of formal referral to the Council on Probate Judicial Conduct. The review should take into consideration but not limit itself to monetary sanctions. The Office of the Probate Court Administrator must prepare and submit a formal report with any recommended changes to the General Assembly's committees of cognizance and the Chief Justice no later than September 1, 2006.

10. The Office of the Probate Court Administrator shall enforce the continuing education credit requirement for probate judges and discontinue the allowance of credit for presentations to the general public.

11. The Office of the Probate Court Administrator shall re-examine the scope of the probate judge training and continuing education program to address inconsistent practices and better understanding of probate practice.

12. The Office of the Probate Court Administrator and the Probate Assembly shall develop a curriculum and examination to establish the competency of probate judges to hear cases. Before taking office, new probate judges will be required to complete the curriculum and/or pass the examination. Currently sitting judges should be "grandfathered" in for the balance of their term.

13. The Office of the Probate Court Administrator and the Probate Court Assembly shall jointly establish a minimum allowable workload standard per full-time employee.

    The Office of the Probate Court Administrator and the Probate Court Assembly shall develop a report identifying potential opportunities for a voluntary consolidation of existing probate court districts to achieve a minimum weighted workload in each district. In addition to a minimum weighted workload, the report must take into consideration the adequacy of the existing court facilities, the potential expense for expanded facilities, and any reasonable geographic impact on transportation. Furthermore, the report must take into account the impact of the anticipated expansion of the regional children probate court model on the existing workload of the regular probate courts.

    The report shall be developed by September 1, 2006, and provided to the Probate Assembly and the chief elected official of each town recommended for consolidation for comment. A final report, including comments received, shall be submitted to the Judiciary Committee and the Chief Justice by December 31, 2006.

		Comparative Report 2007 (OPCA)			
District	Gross Revenue	Op Expense	Staff	Judges	Net Income
Andover	58,466	4,711	39,781	27,754	($13,780)
Ashford	25,030	3,385	7,178	14,466	$1
Avon	182,247	6,590	39,401	72,576	$63,680
Berlin	618,657	49,407	223,438	110,085	$235,727
Bethany	44,956	6,554	0	18,805	$19,597
Bethel	119,031	2,081	39,278	60,517	$17,155
Bloomfield	384,257	13,703	92,092	89,937	$188,525
Bozrah	14,028	748	7,104	6,176	$0
Branford	353,396	13,441	76,731	89,175	$174,049
Bridgeport	649,418	152,781	483,898	110,085	($97,346)
Bristol	375,116	57,172	217,633	82,980	$17,331
Brookfield	157,780	12,452	28,565	60,912	$55,851
Brooklyn	45,245	4,806	12,829	27,329	$281
Burlington	31,859	2,454	12,765	16,639	$1
Canaan	0	0	0	0	$0
Canton	87,586	12,863	18,844	50,266	$5,613
Cheshire	339,354	22,510	69,701	88,371	$158,772
Clinton	116,928	1,269	26,378	40,608	$48,673
Colchester	140,185	29,773	52,322	51,703	$6,387
Cornwall	0	0	0	0	$0
Danbury	479,744	37,286	182,497	110,085	$149,876
Darien	454,763	32,075	112,470	89,496	$220,722
Deep River	49,223	1,993	10,219	32,904	$4,107
Derby	291,507	39,197	121,543	72,755	$58,012
East Granby	0	0	0	0	$0
East Haddam	85,906	999	11,850	59,278	$13,779
East Hampton	45,327	5,797	14,226	25,139	$165
East Hartford	316,711	36,203	145,510	73,602	$61,396
East Haven	148,137	12,246	66,287	57,552	$12,052
East Lyme	191,254	19,812	58,285	69,233	$43,924
East Windsor	246,954	26,634	67,418	76,896	$76,006
Eastford	8,012	300	0	7,711	$1
Ellington	284,996	35,982	134,927	69,419	$44,668
Enfield	317,478	14,890	71,061	87,590	$143,937
Essex	177,440	13,179	51,678	66,600	$45,983
Fairfield	898,744	47,213	277,032	99,560	$474,939
Farmington - Daly 2	302,770	32,497	90,354	80,948	$98,971
Farmigton - Morriss	0	420		19,579	($19,999)
Glastonbury	386,122	23,097	114,585	88,436	$160,004
Granby-Kneirim					$0
Granby-Brown	61,549	2,934	20,686	36,642	$1,287
Greenwich	1,548,732	66,291	339,719	110,085	$1,032,637
Griswold	55,446	7,885	17,969	29,201	$391
Groton	328,052	27,021	105,082	83,353	$112,596
Guilford	178,216	14,794	49,465	69,393	$44,564
Haddam	42,002	3,844	7,967	29,739	$452
Hamden	617,110	20,974	89,872	97,855	$408,409
Hampton	3,968	1,015	0	2,952	$1
Hartford	734,908	77,732	583,598	110,085	($36,507)
Harwinton	21,878	2,370	16,164	6,630	($3,286)

Hebron	37,315	2,962	11,891	22,439	$23
Kent	0	0	0	19,593	($19,593)
Killingly	89,412	11,808	60,614	16,989	$1
Killingworth-Darin	42,763	3,504	16,109	23,093	$57
Killingworth-Lentz	0	0	0		$0
Ledyard Grenger	45,096	7,533	15,673	21,889	$1
Ledyard-Rowe				232	($232)
Litchfield	309,183	72,494	49,009	82,112	$105,568
Lyme	22,063	132	3,566	17,570	$795
Madison Zuckerma	209,485	44,510	44,061	70,785	$50,129
Madison - Lougee		9,918	194	27,357	($37,469)
Manchester	386,687	35,448	163,956	82,053	$105,230
Mansfield	193,731	35,346	22,106	73,858	$62,421
Marlborough	36,205	7,220	8,755	20,229	$1
Meriden	334,593	27,828	92,606	86,084	$128,075
Middletown	561,571	99,876	224,248	110,085	$127,362
Milford	381,100	24,686	97,373	88,966	$170,075
Montville	131,251	7,006	24,718	65,981	$33,546
Naugatuck	164,020	5,163	67,797	63,864	$27,196
New Canaan	467,172	52,872	126,430	90,407	$197,463
New Fairfield	149,075	10,276	22,000	51,624	$65,175
New Hartford	62,512	4,877	24,010	32,830	$795
New Haven	711,271	140,155	469,230	110,085	($8,199)
New London	430,623	68,335	202,101	90,780	$69,407
New Milford	221,029	17,627	90,801	69,122	$43,479
Newington	788,002	144,251	260,397	110,084	$273,270
Newtown	181,972	13,893	56,456	68,927	$42,696
No. Branford	151,819	11,549	39,972	66,173	$34,125
No Haven	267,977	4,854	61,556	84,195	$117,372
No. Stonington	33,004	3,261	12,486	17,255	$2
Norfolk	0	0	0	28,716	($28,716)
Northwest Corner	363770	68,350	80,068	86,263	$129,089
Norwalk	1,085,561	100,120	378,153	110,085	$497,203
Norwich	387,965	54,378	106,748	87,356	$139,483
Old Lyme	140,493	7,602	17,110	55,008	$60,773
Old Saybrook	208,981	14,748	35,414	74,232	$84,587
Orange	173,519	8,619	52,138	69,154	$43,608
Oxford	67,020	1,880	14,570	37,944	$12,626
Plainfield	103,612	10,616	45,193	44,658	$3,145
Plainville	116,815	13,011	33,945	57,679	$12,180
Plymouth	80,868	16,155	26,095	37,228	$1,390
Pomfret	23,943	1,018	7,973	14,951	$1
Portland	44,179	5,615	23,748	14,814	$2
Putnam	45,498	8,076	18,033	19,388	$1
Redding	242,926	3,509	20,088	48,744	$170,585
Ridgefield	221,278	8,101	52,185	67,968	$93,024
Roxbury	55,079	4,559	13,080	22,639	$14,801
Salem	21,484	8,297	0	13,186	$1
Salisbury	0	0	0	0	$0
Saybrook - Bennett	0	0	0	10,728	($10,728)
Saybrook - Tobis	68,403	11,044	15,105	27,720	$14,534
Sharon	0	0	0	0	$0

Shelton	316,369	24,218	105,595	81,944	$104,612
Simsbury	197,096	11,258	79,784	67,612	$38,442
Southbury	426,497	16,957	117,597	90,611	$201,332
Southington	283,567	22,177	111,207	76,488	$73,695
Stafford	132,555	31,400	62,291	37,437	$1,427
Stamford	1,276,901	108,996	304,924	110,085	$752,896
Stonington	382,595	30,123	60,253	90,625	$201,594
Stratford	463,123	28,808	178,303	88,814	$167,198
Suffield	195,645	19,677	48,693	56,736	$70,539
Thomaston	42,935	5,790	11,092	25,849	$204
Thompson	56,389	926	195	49,868	$5,400
Tolland	99,347	5,472	35,789	51,700	$6,386
Torrington	291,518	30,036	92,066	79,373	$90,043
Trumbull	606,030	42,560	129,000	96,060	$338,410
Wallingford	320,258	17,388	104,873	83,660	$114,337
Washington	107,498	9,954	7,001	38,918	$51,625
Waterbury	742,679	99,984	386,296	110,085	$146,314
West Hartford	1,041,932	77,357	263,314	110,085	$591,176
West Haven	258,927	19,518	194,081	110,085	($64,757)
Westbrook	93,910	3,720	14,788	46,512	$28,890
Westport	694,436	45,363	104,787	98,805	$445,481
Winchester	92,628	5,402	34,675	48,102	$4,449
Windham	128,584	6,590	43,896	60,623	$17,475
Windsor	182,122	11,967	63,352	67,799	$39,004
Windsor Locks	74,633	2,774	30,980	39,150	$1,729
Woodbridge	136,206	30,511	17,020	59,400	$29,275
Woodbury	249,405	41,196	63,052	75,634	$69,523
Woodstock	38,665	2,379	0	30,672	$5,614
Total Revenue	30,813,263	2,966,963	10,081,067	7,376,956	$10,388,277
Operating Exp	(20,424,986)				
Net Income	10,388,277				

Regional Children's Probate Court
2008/2009 FISCAL YEAR BUDGET

Budget Line	Description	Bridgeport	Hartford	Meriden Wallingford	New Haven	New London	Northeast	Waterbury	TOTAL	Court Services
01	Salaries and Fringe Benefits	288,556	367,330	318,318	624,603	298,998	169,660	351,850	2,417,313	128,663
02	Training	600	900	600	800	400	200	600	4,100	0
03	Travel	2,000	3,000	2,000	2,500	2,000	2,200	4,780	18,480	800
04	Office Expenses	10,000	10,500	10,000	15,000	10,000	6,200	2,135	63,835	4,500
05	Postage	7,000	8,000	7,000	18,000	7,000	5,000	0	52,000	6,000
06	Telephone	2,500	3,000	2,500	7,500	3,000	7,500	0	26,000	4,100
07	Copy Machine	5,000	5,000	5,000	4,900	5,000	5,000	0	29,900	4,900
08	Payroll and Accounting	0	0	0	0	0	0	0	0	21,600
09	Insurance (WC and Liability)	5,500	5,500	5,500	14,900	5,500	3,000	0	39,900	5,000
10	Legal Advertising/Notice/Printing	2,500	2,500	2,500	3,300	3,500	2,500	1,000	17,800	250
11	Laserfiche	1,344	1,344	1,344	2,300	1,344	2,688	1,344	11,708	3,000
12	Social Services	0	0	0	0	0	0	0	0	0
13	Cleaning	4,000	4,000	4,000	12,500	4,000	7,500	7,872	43,872	10,000
14	Repairs, Maintenance, and Utilities	15,000	0	15,000	19,500	23,000	8,000	2,500	83,000	7,800
15	Rent	46,365	0	46,365	57,000	46,365	54,765	0	250,860	0
16	Court Services	25,135	26,469	27,052	50,065	26,278	17,656	23,958	196,613	0
	TOTAL	415,500	437,543	447,179	832,868	434,383	291,869	396,038	3,255,381	196,613
	Workload	779	1,401	638	2,280	664	374	600	6,736	

Probate Court Administrator's Office, Regional Courts, and Youth in Crisis Program
254 of 685 document(s) retrieved

Topic:
JUVENILE DELINQUENCY; EMPLOYEES (GENERAL); GOVERNMENT PURCHASING; WAGES; CONTRACTS; JUVENILE COURTS; PROBATE COURT; STATISTICAL INFORMATION;
Location:
COURTS - PROBATE;

OLR RESEARCH REPORT

March 23, 2007 2007-R-0269

PROBATE COURT ADMINISTRATOR'S OFFICE, REGIONAL COURTS, AND YOUTH IN CRISIS PROGRAM

By: George Coppolo, Chief Attorney

You asked us to update of 2005-R-0911 concerning the personal service contracts of the Office of Probate Court Administrator. In addition, you asked for:

1. a breakdown of all full- and part-time employees of the Office of the Probate Court Administrator and their salaries;

2. a breakdown of all full- and part-time employees of the Regional Children's Courts and the Youth in Crisis Pilot Program in Middletown including their salaries, and personnel whose salaries are paid from other sources ~~and the names of those~~ sources;

The information in this report was provided by Probate Judge James J. Lawlor, the probate court administrator. Table 1 provides the names and salaries of all employees of the Probate Court Administrator's Office.

Table 1: Names and Salaries of Employees of the Office of Probate Court Administrator

Employee	*Annual Salary*
Judge Lawlor	$ 146,780
Tom Gaffey	110,282
Kimberly Doyle Joyner	94,335
Debra Cohen	76,488
Helen Bennet	73,368
Alison Green	57,765
Susan Dornfried	54,544

Stephanie Janes	57,565
Amy Benjamin	57,565
Vincent Russo	54,544
Nuno Fernandes	62,809
Ann Brennan	53,372
Susan Scotti	67,456
Alyce Cariseo	83,127
Carol Souza	58,889
Susan Jane Obert (part-time)	34,180
Dianna Orvis	44,251
Willette Frank	34,643
Alison Blair	34,643
Paula Gilroy	32,407
Barbara Aszklar	32,250
Total	$ 1,321,263

Table 2 updates a 2005 OLR report (2005-R-0911) concerning personal service contracts.

Table 2: Personal Service Contracts for Office of Probate Court Administrator for FY 2005-06 and 2006-07.

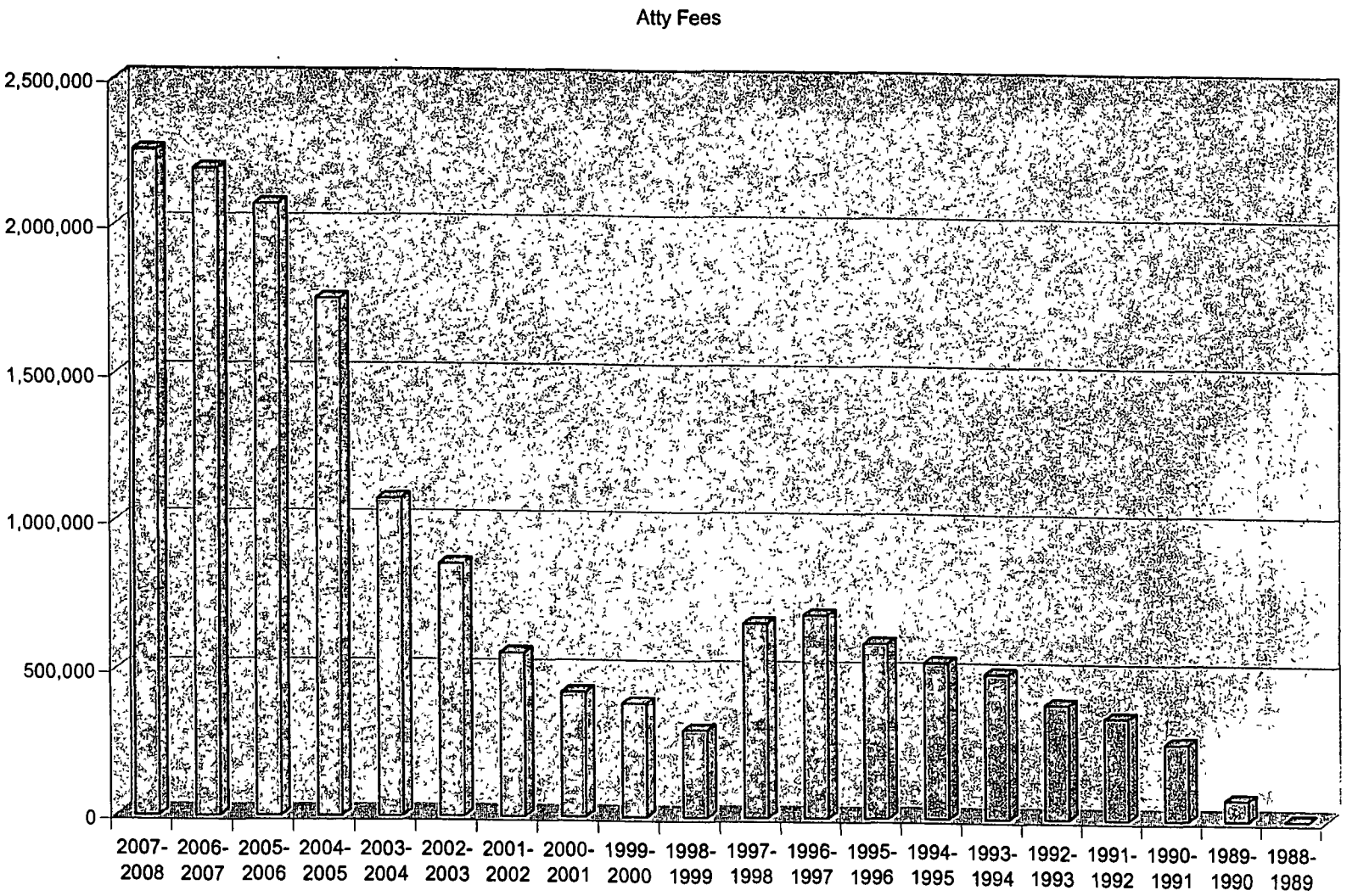
Name of Person or Entity	*Amount Paid*	*Time Frame*	*Fiscal Year*
Atlas Management LLC	$ 19,624. 50	12. 1 2005 -	2005 - 06
		6. 26. 2006	
	7,515. 00	8. 3. 2006 -	2006 - 07
		10. 2. 2006	
Carol A. LePage	2,338. 02	12. 6. 2005 -	2005 - 06
		6. 23. 2006	
	1,546. 09	7. 31. 2006 -	2006 - 07
		1. 30. 2007	
Charles A. Bannon	2,775. 00	12. 20. 2005 -	2005 - 06
		3. 15. 2006	
	6,975. 00	8. 3. 2006 -	2006 - 07
		1. 3. 2007	
Cipriano Training & Development Inc.	4,985. 00	2. 2. 2006	2005 - 06
	5,215. 00	9. 28. 2006 -	2006 - 07
		1. 16. 2007	
Crane Enterprises Inc.	9,460. 78	12. 202005 -	2005 - 06
		6. 5. 2006	
	6,922. 50	7. 26. 2006 -	2006 - 07
		1. 16. 2007	

David D. Biklen	1,890. 00	3 9. 2006	2005 - 06
	4,785. 00	1. 2 2007 -	2006 - 07
		1. 22 2007	
Heidi Famiglietti	19,395. 00	1. 27. 2006 -	2005 - 06
		6. 23. 2006	
	13,620. 00	7. 18. 2006 -	2006 - 07
		1. 25. 2007	
Holt Wexler & Farnam LLP	3,000. 00	1. 12. 2006	2005 - 06
Joseph F. Murphy	2,070. 00	3. 20. 2006	2005 - 06
	4,200. 00	10. 30. 2006	2006 - 07
Judith Robertson	8,530. 00	2. 8. 2006 -	2005 - 06
		6. 9. 2006	
	7,780. 00	7. 26. 2006 -	2006 - 07
		1. 23. 2007	
Karen Wagner	2,605. 50	3. 15. 2006 -	2005 - 06
		6. 26 2006	
	8,363 25	8. 8. 2006 -	2006 - 07
		1. 2. 2007	
Mary Gentile	28,644. 00	1. 13. 2006 -	2005 - 06
		6. 23 2006	
	13,557. 50	1. 16. 2007	2006 - 07
Meghan E. Liljedahl	1,530. 75	6. 22. 2006 -	2005 - 06
		6. 27. 2006	
	3,480. 62	7. 24. 2006 -	2006 - 07
		1. 2. 2007	
Patricia P. Tarca	13,251. 44	12. 1. 2005 -	2005 - 06
		6. 21. 2006	
	10,371. 68	7. 13. 2006 -	2006 - 07
		1. 25. 2007	
Paul DiLorenzo	9,640. 00	1. 2. 2007	2006 - 07
Quaker Farms Consulting LLC	110,128. 75	11. 30. 2005 -	2005 - 06
		6. 26. 2006	
	76,641. 25	10. 5. 2006 -	2006 - 07
		1. 29. 2007	
Thomas F. Casey	45,799. 08	2. 3. 2006 -	2005 - 06
		6. 23. 2006	
	25,975. 90	9. 15. 2006 -	2006 - 07
		1. 23. 2007	
William E. Ryan & Co LLC	20,868. 89	1. 23. 2006 -	2005 - 06
		4. 7. 2006	
	30,510. 99	7. 26. 2006 -	2006 - 07

		1. 23 2007	
William J. Bergin Jr.	3,420. 00	4 7 2006	2005 - 06
	14,478. 00	7. 27. 2006 -	2006 - 07
		1. 16. 2007	
William P. Lavernoich	1,560. 00	1. 18. 2006 -	2005 - 06
		3. 24. 2006	
	555. 00	11. 2. 2006	2006 - 07
Winifred C. Sumner	26,100. 00	2. 9. 2006 -	2005 - 06
		6. 26. 2006	
	16,391. 25	8. 8. 2006 -	2006 - 07
		1. 25. 2007	
Total	$ 596,500. 74		

The Probate Court Administrator asked us to get the information about the children's courts and the Youth in Crisis Pilot Program directly from the courts. We have requested this information from them and will forward it as soon as we receive it.

GC: dw


Atty Fees
2,500,000
2,000,000
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2007-2008
2006-2007
2005-2006
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2003-2004
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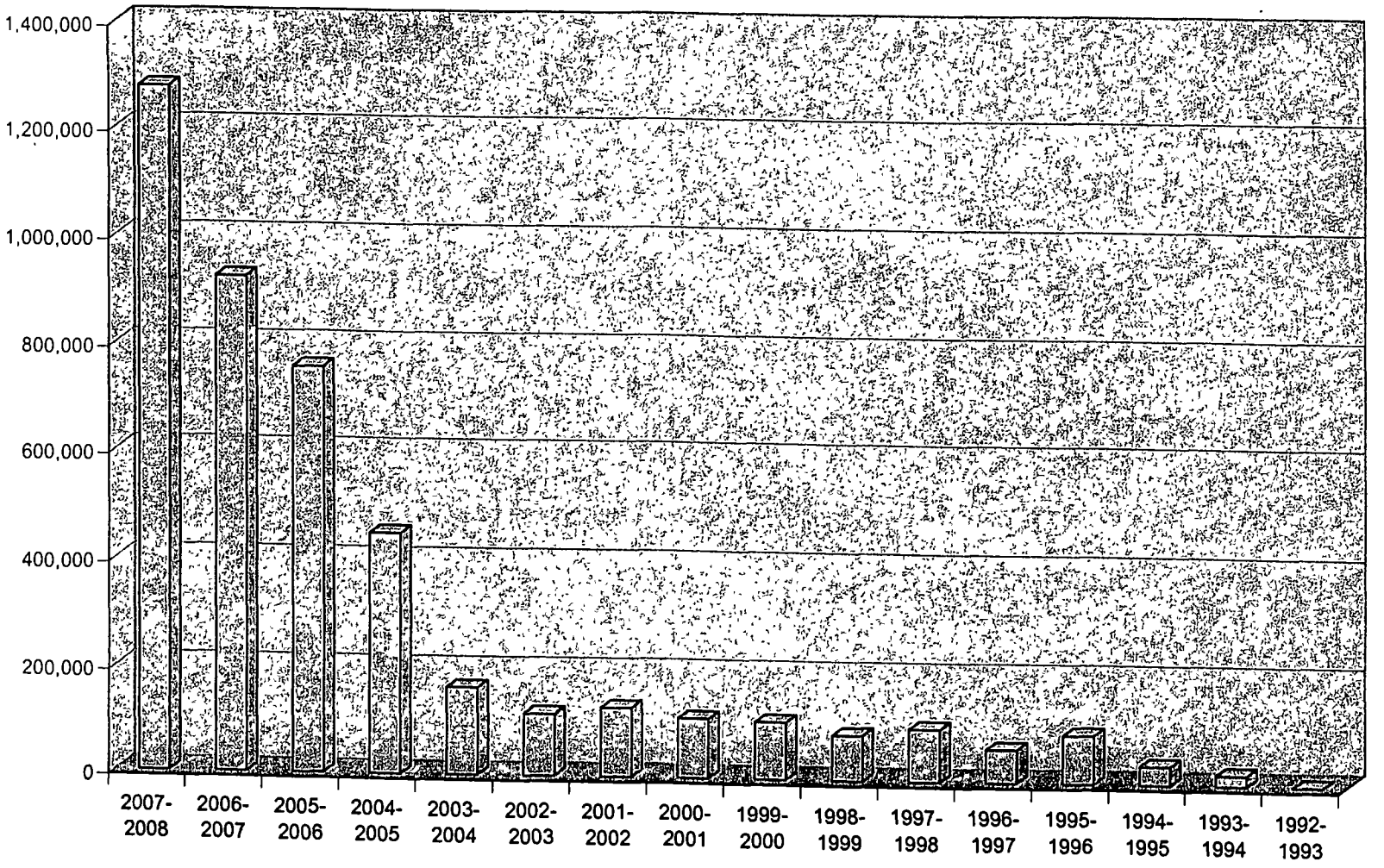
Conservator Fees



JOINT
STANDING
COMMITTEE
HEARINGS

JUDICIARY
PART 12
3621 - 3942

2009

STATE OF CONNECTICUT

OFFICE OF THE
PROBATE COURT ADMINISTRATOR

PAUL J. KNIERIM, JUDGE
Probate Court Administrator

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To: Senate Co-Chair Andrew McDonald
House Co-Chair Michael Lawlor
Senate Ranking Member John Kissel
House Ranking Member Arthur O'Neill
Honorable Members of the Judiciary Committee

From: Paul J. Knierim, Judge
Probate Court Administrator

Re: HB 6027 An Act Concerning Probate Reforms
HB 6385 An Act Concerning Reform of the Probate Court System

Date: March 9, 2009

Thank you for the opportunity to testify about House Bills 6027 and 6385, which are the two key proposals before this Committee that would comprehensively restructure Connecticut's probate courts. I am grateful to the Committee for dedicating a public hearing to the important issues affecting the probate system.

To be direct, this is a "sink or swim" legislative session for the probate courts. The probate system is steadily moving towards bankruptcy, and the pace of our financial decline will doubtless accelerate in the coming months as the impact of declining asset values takes its toll on probate fee revenue. Unless prompt action is taken now, the probate system will be insolvent and unable to meet its financial obligations during the coming fiscal year.

Should the probate system be saved? My answer is a resounding yes. It is a user friendly court that is uniquely well suited to handle the sensitive family matters that the General Assembly has assigned to it over the years. Probate courts have a demonstrated capability in handling pro se matters, and typically resolve matters more quickly and at less expense to the parties than is possible in more formal proceedings. The probate courts can and should be made more

efficient, more uniform, and stronger professionally, and you have before you legislation that can accomplish those goals. But please do know the system will surely collapse, at a great disservice to the people of this state, unless we are able to implement significant structural changes. General fund support for the system is a necessity.

HB 6027 embodies the Strategic Plan for the Probate Courts and it represents the joint efforts of the Probate Assembly and my office. HB 6385 is the Governor's plan for restructuring the probate system. These two bills – which share several important elements but which differ in other key respects -- have framed the debate on how best to modernize the probate system and therefore I will address them both in this testimony.

Before I review some details on these two proposals, I'd like to offer a very brief background on the finances of the probate courts. The probate system is funded principally by the statutory fees that the courts collect. It has been operating with a growing budget deficit since fiscal year 2005. The current year deficit is $4.4 million; the projected deficits for fiscal years 2010 and 2011 are $7 million and $8.4 million, respectively. The system has continued to operate despite these deficits by drawing down on the probate administration fund. We are currently projecting that the fund balance will have fallen to $3 million by June 30 and will be exhausted before December 31, 2009.

There are several causes of the probate system's deficit and the depletion of the probate administration fund. Three factors are most significant.

First, the caseload of the probate courts has been changing. I know that the members of this Committee are fully aware of the broad scope of the jurisdiction of Connecticut's probate courts, but it bears reiterating that probate courts do much more than estate and trust work. Cases involving children, the elderly, and individuals with mental illness represent a growing proportion of the workload in many courts. These social service matters generate less probate fee revenue but demand significant judicial resources.

I am personally proud to represent a court system that has been so responsive to changing societal needs. We recently established, for example, five regional children's probate courts. These courts empower extended families to care for children when a parent cannot. Children who would otherwise be relegated to the far more costly foster care system are able to remain in their own communities. Similarly, Melissa's Project helps conservators implement a support structure for individuals with mental illness living in the community. It has proven a great success in reducing both hospitalizations and arrests. These two programs not only demonstrate the critical role of the probate courts in protecting some of our state's most vulnerable citizens, but also the innovative and cost effective solutions implemented by the probate courts in response to these difficult issues.

A second cause of the system's financial problems is the dramatic increase in indigent expenses at the same time that the state has discontinued general fund support for it. Indigent expenses include the cost of providing the constitutionally mandated services of attorneys, marshals, and physicians for people who are unable to pay. It also includes the compensation of conservators who work on behalf of indigent persons. Historically, the state appropriated funds to cover all or a portion of these expenses, but funding has been negligible since fiscal year 2003. In the current year, the state appropriated only $25,000 for indigent expenses, while the total cost to the probate administration fund is $4.5 million.

Third, the state has transferred a total of $20 million from the probate administration fund to the general fund, $5 million in 1991 and an additional $15 million in 2002. While these transfers are not the cause of the current deficit, they have accelerated the urgency of the situation.

Turning now to proposed solutions to these problems, I'd like to highlight some of the similarities and differences between our Strategic Plan and the Governor's proposal:

1) Central Financing: Presently, each probate court handles its own finances, including all banking, payroll, and accounting functions. The cost of this arrangement approaches $500,000 annually. Under both the Governor's proposal and our own, the accounting functions would be centralized under Probate Court Administration to ensure uniformity and improve efficiency.

   Both proposals would also establish cost control mechanisms. The Strategic Plan calls for a committee comprised of the Probate Court Administrator and two judges selected by the Probate Assembly to establish system-wide pay ranges for staff positions and to determine authorized staffing levels and budgets for each court. The Governor's proposal would vest this authority in the Office of the Probate Court Administrator.

2) Judicial Compensation: The judges' Strategic Plan would replace the existing compensation system for probate judges, which is based principally on court revenue, with a plan based upon population and court workload. In the first year of implementation, the proposal would save approximately $530,000. It would establish a more equitable compensation plan that correlates with the amount of work performed. The Governor's bill recommends a similar approach.

3) Court Consolidation: While both proposals stand for the proposition that the number of probate courts should be reduced, the plans differ significantly in the means by which consolidation would be accomplished.

The Strategic Plan seeks to promote voluntary court consolidations. We propose that the General Assembly establish regional probate planning committees charged with helping communities develop plans to establish regional probate courts that fit their particular needs. The committees would include all judges and municipal CEOs in the region, along with representation from court clerks, attorneys, and members of the public. The Strategic Plan recommends the following incentives to promote voluntary court consolidation: (a) a one-time financial incentive to municipalities that participate in a court consolidation in the form of a $2 per capita grant to their senior centers; and (b) an additional retirement incentive for probate judges and court staff whose districts merge. A November 15, 2009 deadline for committee work would ensure that consolidations could be implemented prior to the next four-year term for probate judges, which begins on January 5, 2011.

The Governor's proposal, in contrast, would replace the existing 117 courts with 36 districts that would share boundaries with the senate districts. We are concerned that a consolidation of this magnitude will be counterproductive from a facilities standpoint. Because these larger courts cannot not in many cases be accommodated in city and town halls, municipalities will be faced with the added expense of leasing commercial space. Some senate districts are simply too geographically large to function as probate districts. Other senate districts divide cities and towns into multiple jurisdictions.

Without question, court consolidation is a means by which the probate system can reduce expenses. It can also promote proficiency by affording judges and court staff a more regular flow of cases. And it will facilitate proper staffing and better accessibility through regular business hours.

At the same time, any approach to consolidation should be sensitive to the needs of the users of our courts. We should be especially careful to locate courts in places that are readily accessible to those who need our services, particularly considering that many of the users of the probate courts are elderly or disabled. We should seek to locate regional courts with reference to existing communities of interest among cities and towns. The availability of suitable space within municipal facilities should be another key consideration.

We respectfully urge this Committee to consider all of these goals as it determines how best to address court consolidation.

4) Appeals from Probate: The plan would establish a new mechanism for appeals from certain types of probate matters by giving Superior Court judges the option of referring an appeal to a special assignment probate judge, in much the same manner as matters are referred to referees. This proposal would take advantage of the expertise of special assignment probate judges,

who are appointed by the Chief Justice pursuant to legislation adopted in 2007.

5) Attorney Judges: The Governor proposes adoption of a requirement that candidates for the office of probate judge be attorneys with ten years of experience. Throughout the long history of the probate courts in Connecticut, there has been no requirement that judges be attorneys. This has been the subject of much debate over the years, and there are strong feelings on both sides of the issue.

   There are currently 26 Connecticut probate judges who do not hold law degrees. Many of them have been judges for years and have developed considerable expertise and knowledge in the area of probate law. All judges, whether or not attorneys, benefit from the mandatory educational programs offered by probate administration and the Probate Assembly.

   During the months long process of developing the Strategic Plan, the issue of requiring that judges be attorneys was debated extensively, and proved to be extremely divisive. Following the debate, I urged that the issue be tabled so that the Probate Assembly could adopt a plan that enjoyed broad support among the judges. In the end, more than 80% of the judges voting supported the Strategic Plan.

   My position has not changed, and accordingly I neither support nor oppose this aspect of the Governor's proposal. We would point out, however, that the Governor's bill does not provide for currently sitting judges to be "grandfathered." Historically, the legislature has not sought to impose new qualifications on officials currently holding office. Should the Committee deem it appropriate to adopt such a requirement that judges be attorneys, we would urge consideration of a provision to permit non-attorney judges currently in office to continue their service.

6) Retirement Incentive: Existing law grants a 4 year pension credit to a probate judge whose district is merged. The Strategic Plan recommends including court staff in this program and increasing the credit amount to 6 years. The enhanced 6 year credit would sunset in January 2011, at the end of the current term. We urge consideration of this proposal to facilitate consolidation and to afford those whose jobs are eliminated a transition to retirement.

7) Court Staffing: The Governor's plan assumes that court consolidation will yield a 20% reduction in court staff. We do not consider such a contraction to be realistic considering that the workload of the courts will remain the same, regardless of the number of facilities.

8) General Fund Support: Notwithstanding the anticipated savings resulting from these proposals, the fact is that the probate system will require general

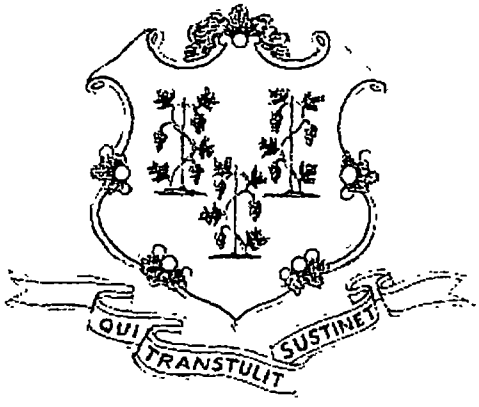
fund support. While the Governor argues that the system should be funded exclusively from probate fee revenue, it is our view that self-sufficiency is neither practically achievable nor philosophically appropriate.

It bears critical emphasis that none of the savings from restructuring under either plan can be realized until January 2011, because all probate judges are currently serving 4 year elected terms that run until then. An investment of general fund support is therefore essential to bridge the period from now until implementation can be completed.

Furthermore, the method of using the fees on estates and trusts to finance all the functions of the probate courts is no longer appropriate. Much of the work of our courts is now focused on social service matters involving children, the elderly, and mental health issues, and it is in these areas that our caseload is growing. We urge the General Assembly to restore support for the system's indigent expenses – much of which results directly from our social service cases. We also respectfully request that the general fund assume responsibility for the payment of health insurance for retired judges and employees, in the same way that it covers that expense for every other state agency.

I'd like to close by observing that, while we are facing great challenges, we are at the same time presented with the best opportunity ever to strengthen and improve our probate courts. All three branches of state government are engaged in this important discussion, and I sense a strong commitment on the part of all involved to build on the strengths of the probate courts and the people who serve in them.

I welcome the opportunity to work with the members of this Committee to resolve the differences between the Strategic Plan and the Governor's proposal that I've just outlined.



Strategic Plan for the Probate System

March 1, 2009

The Connecticut Probate Assembly
and the
Office of the Probate Court Administrator

The probate system has been operating with a budget deficit since fiscal year 2004-05. The system has sustained itself by drawing down on the probate administration fund, but the fund is expected to be exhausted by mid-year 2010. Unless prompt action is taken now, the probate system will be insolvent and unable to meet its financial obligations in the next fiscal year.

The Probate Assembly and Probate Court Administration have worked collaboratively over the past several months to develop solutions to financial challenges confronting the system and to strengthen the professionalism of the courts.

The Strategic Plan set forth in the following document addresses these concerns. It represents the joint efforts of the probate judges and the administrator's office. At the January 6, 2009 meeting of the Probate Assembly over 80% of the judges present voted in favor of these initiatives

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Probate Court Administrator
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EXECUTIVE SUMMARY

THE FINANCIAL STATUS OF THE PROBATE SYSTEM

The Connecticut probate system, which is funded principally by the statutory fees the courts collect, has been operating with a growing budget deficit since fiscal year 2004-05. The current year deficit is $4.3 million; the projected deficits for fiscal years 2009-10 and 2010-11 are $6.9 million and $8.3 million, respectively. The system has remained solvent despite these deficits by drawing down on the probate administration fund. With only $6.1 million remaining on hand as of December 31, 2008, the probate administration fund is expected to be exhausted in early 2010.

There are several causes of the probate system's deficit and the depletion of the probate administration fund. Three factors are most significant.

First, the caseload of the probate courts has been changing. Cases involving children, the elderly and mental health issues represent a growing proportion of the workload in many courts. These social service matters generate less probate fee revenue but demand significant judicial resources.

Second, the system has seen a dramatic increase in indigency expenses at the same time that the state has discontinued general fund support for it. Indigency expenses include the cost of providing the constitutionally mandated services of attorneys, marshals, and physicians for people who are unable to pay. It also includes the compensation of conservators who work on behalf of indigent persons. Historically, the state appropriated funds to cover all or a portion of these expenses, but funding has been negligible since fiscal year 2002-03. In the current year, the state appropriated only $25,000 for indigency expenses, while the total cost to the probate administration fund is $4.5 million.

Third, the state has transferred a total of $20 million from the probate administration fund to the general fund, $5 million in 1991 and an additional $15 million in 2002. While these transfers are not the cause of the current deficit, they have accelerated the urgency of the situation.

PROPOSED SOLUTIONS

The Probate Assembly and Probate Court Administration have developed several remedies to these fiscal challenges. Strengthening the professionalism of the courts has been an equally important goal.

The five parts of the proposal are:

1. Central Accounting: Presently, each probate court handles its own finances, including all banking, payroll, and accounting functions. Courts make their own determinations about staffing levels and operating costs. Court finances are subject to annual audits by probate administration.

Under this proposal, the accounting function would be centralized under Probate Court Administration to ensure uniformity and improve efficiency. A committee would be established to set system-wide pay ranges for staff positions and to determine authorized staffing levels and budgets for office expenses. This measure would eliminate a significant administrative burden in the courts and ensure appropriate cost controls.

2. Probate Court Planning Committees: To facilitate voluntary court consolidations, it is proposed that the General Assembly establish nine regional probate planning committees. These committees would help municipalities develop plans to establish regional probate courts that fit the needs of their communities. A November 15, 2009 deadline for committee work would ensure that consolidations could be implemented prior to the next four-year term for probate judges, which begins on January 5, 2011.

   The following two incentives are recommended to promote voluntary court consolidation: (a) a one-time financial incentive to municipalities that participate in a court consolidation in the form of a grant to their senior centers equal to $2 per capita, not to exceed $50,000; and (b) an additional retirement incentive for probate judges and court staff whose districts merge.

3. Judicial Compensation: The proposal replaces the existing compensation system for probate judges, which is based principally on court revenue, with a plan based upon population and court workload. In the first year of implementation, this proposal would save approximately $530,000 and would ensure that judges' pay correlates with the amount of work performed.

4. Probate Appeals: The plan would establish a probate appellate docket to hear appeals from certain types of probate matters. Parties could still appeal to Superior Court, but would have the option of being heard by a special assignment probate judge. This proposal would take advantage of the expertise of special assignment probate judges and would promote the development of appellate authority on probate matters. It would have minimal financial impact on the system.

5. General Fund Appropriation Request: The proposals outlined above will make the probate system more cost effective in the long term. However, significant savings may not be achieved before January 2011 when the judges' current terms of office end. In addition, these proposals involve significant structural changes that will require time to plan and implement.

   As recently as January 2008, it appeared that the probate system would not require any funding until FY 2011. Latest fiscal indicators, specifically the decline in the stock market and property values, project the probate administration fund's bankruptcy occurring in FY 2010. The probate system will require and appropriation of approximately $4 million in FY 2010 and approximately $8.3 million in FY 2011.

That funding would cover two areas of significant expense. First, the general fund should assume responsibility for indigency expenses, as it has in the past. These costs are constitutionally mandated and will exist even if the probate system becomes insolvent. Secondly, the proposal seeks an appropriation to pay for health insurance for retired judges and staff because the probate system is the only state agency that pays this expense directly from operating funds.

CONCLUSION

Connecticut's probate courts are a vital part of the safety net for many of our state's most vulnerable citizens. Cases in probate court involve the care of children, the elderly, and individuals with mental illness and developmental disabilities. Probate matters also entail the challenging issues that can arise in the settlement of decedent's estates and the management of trusts.

Probate courts were established specifically to handle these sensitive family matters. The courts are readily accessible to the communities they serve. The judges are specialists who handle their cases with fairness and compassion and who strive to resolve cases as quickly as possible. Many families are comfortable appearing in the probate court without an attorney because court staff is highly service oriented and hearings are relatively informal.

The strategic plan offered by the Probate Assembly and Probate Court Administration seeks to make court operations more efficient and promote uniformly high professional standards throughout the system. It will also preserve the essential qualities of the system and enable communities to help shape the future structure of the probate system. While the need for financial assistance comes at a very difficult time for the state, an investment now will ultimately save considerable expense.

STRATEGIC PLAN PROPOSALS

1. CENTRAL ACCOUNTING

Proposal:

- Probate administration will perform certain accounting and payroll functions presently handled by individual courts.
- The courts will continue to be responsible for billing and collecting fees. Courts will deposit receipts into the central system bank account administered by probate administration.
- Court staff will continue to be employees of the courts, and judges will have exclusive authority to hire and manage court staff. Judges will determine employees' wage and salary rates within established ranges in a compensation plan.
- Probate administration will conduct all payroll functions on behalf of the courts, including preparation of checks and filing and payment of all payroll taxes. This function will likely be outsourced.
- Courts will be allocated budgeted amounts for miscellaneous office expenses.
- A committee will be established to determine the compensation plan for staff, staffing levels, and budgets for miscellaneous office expenses.

Notes:

- The central accounting proposal will ensure efficient and uniform management of the courts' administrative and financial functions. It seeks to transform the present arrangement of 117 separately managed courts into a more cohesive system.
- An additional benefit of the proposal is to reduce the administrative burden on the courts. There are several benefits for the courts:
    - Ensure accurate and timely payment and filing of payroll taxes.
    - Simplify payments for health insurance.
    - Eliminate the need for income reports, quarterly assessment payments, and interest and penalties for underpaid assessments.
    - Eliminate the need to maintain working capital at year's end.
    - Eliminate the complexity of the court subsidy / temporary funding process.
    - Significantly reduce the work and expense associated with court audits.
- In 2007 the courts spent over $300,000 for accountants, payroll services, and bank charges. Bookkeeping activities conducted by court staff represent an

additional expense. Considering the cost of probate administration staff and contract auditors who are involved in the audit process, the total annual cost for these activities under the present arrangement is estimated to be in excess of $500,000.

2. PROBATE COURT PLANNING COMMITTEES

Proposal

- Establish nine Probate Court Planning Committees based on the existing probate regions to facilitate voluntary consolidations. These committees would explore opportunities to consolidate probate courts, taking into consideration public access to the courts, availability of municipal facilities, the shared interests of communities, and the populations served.

- Committee membership:

    - Each probate judge in the region
    - Each municipal CEO or designee
    - 3 clerks appointed by CAPC Executive Committee
    - Probate court administrator or designee
    - 1 attorney designated by the CBA Estate and Probate Section
    - 1 attorney designated by the CBA Elder Law Section
    - 4 members of the public appointed by the 4 legislative leaders
    - 1 member of the public appointed by the Governor
    - 1 member each designated by the Council of Small Towns and the Connecticut Conference of Municipalities

- Regional planning agencies to provide staff to facilitate discussions.

- Senior Center Grants: Municipalities that participate in a consolidation will receive a $2 per capita grant for their senior centers. The maximum grant per town will be $50,000. Municipalities involved in a merger can also agree to split the funding in a different manner.

- Under current law, when a probate district merges with another district and a judge is not re-elected, the judge receives an enhanced retirement benefit of four years of credited service or a reduction in retirement age. That benefit would be increased to 6 years and include clerks. It would sunset in January 2011.

- Planning Committees will report to the General Assembly by November 15, 2009.

Notes:

- This process facilitates structural change that achieves long-term cost savings while avoiding a top-down mandatory consolidation policy.

- The process will empower municipalities to develop plans, where appropriate, for local-regional probate courts that address their communities' unique needs.

3. JUDICIAL COMPENSATION

Proposal:

- Establish salary bands based on population and weighted workload (WWL). WWL is a factor only where it is disproportionately high relative to the population of a district, to compensate for unusual demands on a given court (e.g., workload generated by a hospital or mental health facility in the district). Districts comprised of four or more towns are shifted to the next higher band to reflect the challenges of serving multiple communities spread over large geographic areas.

- Salaries are based on a percentage of the statutory amount paid to Superior Court judges and will automatically adjust when that amount changes.

- The proposed compensation plan would be phased in beginning with the next four-year term, which commences in January 2011. During that term, pay reductions would be capped at 20% and no judge would receive an increase in compensation. The compensation plan will become fully effective in January 2015.

- This part of the plan saves approximately $531,000 per year during the phase-in.

Notes:

- The proposal significantly improves the equity of the compensation plan for judges. Compensation under the proposal would be driven by population and workload, which are criteria more closely related to work performed than the current revenue based computation.

- The tabulation of weighted workload will be reviewed by the probate court administrator prior to the implementation of the new salary bands and updated where appropriate.

4. PROBATE APPELLATE DOCKET

Proposal:

- Establish a probate appellate docket within the existing Special Assignment Judge framework to enable probate judges to handle appeals.

- Application to various types of appeals:

- De Novo Appeals: Appellant has the option of appealing to probate appellate docket or Superior Court.
- Record Appeals: Matters heard on the record in Probate Court will continue to be record appeals in Superior Court.
- Children's Matters: Children's matters will continue to be heard de novo in Superior Court Juvenile Matters.
- Will Contests (which involve jury rights): If any interested party claims the matter for a jury trial, the Probate Court will decline jurisdiction and the appellant has 30 days from date of declination to file the appeal.

- Any appeal taken from the decision of a Special Assignment Judge will be a record appeal to the Appellate Court.

Notes:

- The proposal attempts to keep the appeal process revenue neutral.
  - Compensation: Special Assignment Judges' compensation is fixed by Probate Regulations sections 25.4(b), and 3.4.4b.
  - Fees:
    - Entry fee of $250 paid by the appellant.
    - Statutory hourly fees will be assessed in accordance with 45a-106 ($25 per hour).
    - Fees are payable to the probate administration fund, because the fund pays the compensation of the Special Assignment Judges.
    - The judge will have the discretion to apportion the charges among the parties, as provided by current law.
- Since most appeals under this plan will involve estate and trust matters, the impact of this process on indigency expenses should be negligible.

5. GENERAL FUND APPROPRIATION REQUESTS

Proposal:

- Request appropriations from the general fund for indigency expenses and the cost of health insurance for retired judges and staff.
- The specific amount of the appropriation request for each fiscal year will be equal to the operating deficit of the probate system, net of funds available from the probate administration fund. Based upon current budget projections, the necessary additional appropriation would be $4 million in FY 2009-2010 and $8.3 million in FY 2010-2011.

	PAF Operating Deficit	PAF Balance AT YEAR END	Requested Appropriation
FY 2009-10	$6,935,293	($3,904,326)	$4,000,000
FY 2010-11	$8,247,696	($8,247,696)	$8,300,000

- These figures reflect the projected budgets for FY 2010 and FY 2011 before the implementation of any changes contemplated in the plan. These changes, together with modifications to the probate administration budget and updates to our revenue projections, will likely necessitate adjustment of these figures.

Notes:

- The amount on hand in the probate administration fund has been steadily declining due to several factors:
    - Changing caseload: Cases involving children, the elderly, and mental health issues represent a growing proportion of the workload in many courts. These social service matters generate less probate fee revenue but demand significant judicial resources.
    - Transfer of $5 million from the fund to the general fund to help cover a budget shortfall in 1991.
    - Transfer of an additional $15 million from the fund to the general fund in 2002.
    - Decline in interest income: At its peak, the fund was generating approximately $2 million annually in interest. By comparison, interest revenue in the current fiscal year is projected at $223,000.

- A significant portion of indigency expense is made up of the fees of attorneys, marshals, and physicians who perform constitutionally mandated services for individuals who are unable to pay. As a result, the general fund would bear this expense if the probate system is unable to cover it.

- The probate system is the only agency of state government that pays the cost of health insurance for its retirees from its operating budget. The cost of retiree health insurance is paid from the general fund for every other state entity.

TESTIMONY OF HON. DIANNE E. YAMIN, PROBATE JUDGE, JUDICIAL DISTRICT OF DANBURY

MONDAY, MARCH 9, 2009

JUDICIARY COMMITTEE

H.B. No. 6027: An Act Concerning Probate Court Reforms

H.B. No. 6385: An Act Concerning Reform of the Probate Court System

TESTIMONY:

Chairman Andrew McDonald, Chairman Mike Lawlor, Ranking Members John Kissel and Arthur O'Neill, and Honorable Members of the Judiciary Committee:

I am Judge Dianne Yamin. I have been the Probate Judge for the District of Danbury for nineteen years, and I am the Immediate Past President of the Connecticut Probate Assembly. I am honored to appear before you again this year, as it is a momentous time for the Connecticut Probate Court System.

Before I discuss the specifics of our proposal, I want to remind you of the tremendous service to the people of the state that the Connecticut Probate Court provides. Coming from a big city Court, I must tell you that only half of my time is spent on decedent's estates and the other half on guardianships of minors, psychiatric commitments, guardians of mentally retarded and conservatorships for mentally ill or elderly persons. A

huge portion of our time and resources are spent helping elderly persons obtain benefits, drug addicted persons obtain services and children at risk obtain safe homes.

At a well attended meeting of the Connecticut Probate Assembly recently, the Judges approved a plan by an overwhelming majority, which was presented by fellow Danburian and your esteemed legislator, Bob Godfrey, as H.B. No. 6027, An Act Concerning Probate Court Reforms.

The Probate Court Administrator and the Probate Assembly diligently worked together on our plan, which includes five (5) components:

1. Central Accounting: Rather than having the individual Probate Courts handle their own finances, including banking, payroll and accounting, our plan proposes centralizing all accounting through the Office of the Probate Court Administrator to ensure uniformity and improve efficiency.
2. Probate Court Planning Committees: We are asking the General Assembly to establish nine regional probate planning committees, charged with helping the municipalities develop plans to establish local-regional Probate Courts that fit the particular needs of the communities in each region. A very tight, November 15, 2009 deadline for committee work would ensure that proposed consolidations would be implemented prior to the next four-year term for Probate Judges, which begins on January 5, 2011. It is so important to have the input of Selectpersons, Mayors and Legislators from each region when determining the best way to bring towns and Court districts together to consolidate. This particular proposal regarding planning committees includes two powerful incentives to consolidate: (A) a one-time financial incentive to municipalities that participate in Court

consolidation in the form of a grant to their senior centers equal to $2 per capita, not to exceed $50,000, and (B) an additional retirement incentive for Probate Judges and Court staff whose districts merge.

3. Judicial Compensation: Our plan replaces the existing Judges' compensation system, which is principally based on Court revenue, with a more efficient plan based on workload and population. In the first year, at least $530,000 in salaries would be saved and going forward we would have a salary formula which correlates directly to work performed.
4. Probate Appeals: A Probate Appellate Court would allow parties to appeal to the Superior Court or to a Special Assignment Probate Judge. This proposal promotes the development of appellate authority and expertise on probate matters, which could further promote efficiency.
5. General Fund Appropriation Request: The Proposal also provides for the General Fund to assume responsibility for indigency expenses, as it long had in the past. Secondly, it seeks an appropriation to pay health insurance for our retired Judges and staff, as the Connecticut Probate Court System is the only state agency which has been paying for this expense through our operating funds.

I have great respect for our Honorable Governor M. Jodi Rell and I appreciate her interest in preserving and strengthening the Probate Court System. Her plan also includes central accounting and structural reform. However, the Governor's Plan, (H.B.6385) divides the Probate Courts into 36 Senatorial Districts. Although it certainly makes sense to consolidate the Courts into pre-existing regional districts, I do not believe that the

Senatorial districts will well serve the people who utilize the Probate Court system. The Senatorial districts often break up towns into several regions, such as in Stamford, which would result in some towns having several probate districts within the one town, clearly an unworkable result. I believe this would be confusing to residents and difficult for the Courts to monitor, and extremely inefficient.

My second concern about Senatorial districts for probate court regions is the logistics of statutorily and practically sufficient space for the Courts. Most of the currently existing Probate Courts are located in small spaces in city halls. Even the largest Probate Courts will likely need major renovations or entirely new facilities in order to accommodate much larger staffs and work loads, and require building new structures, which also could be prohibitively costly. That is the beauty of the planning committees set forth in H.B. 6027 in, in that these logistics can be addressed at a local level, where the most informed decisions can be made.

Overall, H.B. 6027, An Act Concerning Probate Court Reforms, provides a well thought out plan for facing the financial issues of the Connecticut Probate Court System with centralized accounting, assistance from the State in logical areas, restructuring of the Judges' salaries and most importantly, a mechanism for promoting consolidation of the Courts which appropriately involves local legislators and municipal officials.

Respectfully submitted,

Hon. Dianne E. Yamin,

Probate Court, District of Danbury

To: Senate Co-Chair Andrew McDonald
House Co-Chair Michael Lawlor
Senate Ranking Member John Kissel
House Ranking Member Arthur O'Neill
Honorable Members of the Judiciary Committee

From: Fred J. Anthony, Judge
President-Judge
Connecticut Probate Assembly

Re: HB 6027 An Act Concerning Probate Reforms
HB 6385 An Act Concerning Reform of the Probate Court System

Date: March 9, 2009

Thank you for the opportunity to offer testimony with regard to House Bills 6027 and 6385, each of which proposes broad reforms to the Connecticut probate court system. I serve as the Probate Judge from the district of Shelton and I also currently serve as the President-Judge of the Connecticut Probate Assembly. The Connecticut Probate Assembly is the organization established by Connecticut General Statutes which represents all of the 117 States Probate Judges.

The "Strategic Plan" which has been submitted by the Assembly in a joint, collaborative effort with the Probate Court Administrator's office seeks to institute reform and advancement to the Probate Courts throughout the state. In reviewing the final product it is important to appreciate how this Strategic Plan evolved and why is has received widespread acceptance from the judges. In fact, it was approved by over 80 percent of the judges who voted.

The Probate Assembly is comprised of all 117 of the States probate judges and each member has an equal vote. The various districts are diverse in population, geography, demographics and socio-economic status. Reaching a consensus in this diverse body can be difficult as each courts in different areas of the state often confronts different challenges.

People who come before our courts are often facing very difficult personal troubles including the death of a loved one, the incapacity of a family member due to a debilitating disease such as Alzheimer's, or concern for a neglected or abused child.

The probate system has largely funded itself over its 300 plus years history. Unfortunately, the financial troubles that confront most areas of the state government confront the Probate System as well, prompting member of the Assembly to consider many initiatives to make the probate system more financially secure

Recognizing the impending financial crisis facing the courts, the challenge facing the Assembly was to balance these two important interests. Providing cost effective service, while still ensuring that appropriate and adequate services are provided to the public during such difficult personal times.

An invitation was extended to every probate judge to submit a plan or idea to the entire Assembly to ensure that the courts will continue to provide services to the people of the State uninterrupted. A total of 15 submissions were received and considered by the full Assembly. Subsequently, the executive committee reviewed all the submissions and put forth a comprehensive proposal that was then reviewed again by the entire Assembly over a period of two days.

The process was designed to be open and inclusive. Every judge had a full opportunity to submit their own proposal and comment on every other that came before the Assembly. The Administrator expressed a willingness to work with the Assembly and was active in our deliberations, but he did not dictate its direction. We are pleased and proud that both entities were able to reach consensus on these issues.

There has been division in the past as to the future of the system amongst the judges. That is way I am pleased to report that over 80% of the judges who voted on this Strategic Plan support it. It has received support from judges in every corner of the State, small towns and large towns.

Certain provisions of the strategic plan make the courts finances more uniform, efficient, and allow for more accountability. The plan proposes a more equitable compensation system for judges based upon population and workload. It will result in a reduction in judicial salaries and savings to the system.

Judge Knierim has presented a review of some of the similarities and the differences in the Strategic Plan submitted by the Administrator and the Assembly and the Governor's plan. Both plans envision an improved probate court system with greater efficiency and accountibility while still retaining the accessibility and sensitivity such matters demand.

Both plans share certain key components

1) A Distinct System: The probate courts are separate, distinct courts that are not part of the Superior Court system. Due to the personal nature of the matters which come before the probate courts, the public is better served by having such matters handled in venues in which responsive appropriate services can be rendered, without burdening the Superior Court facilities and staff
2) Central Financing: Under both the Governor's proposal and our own, the accounting functions currently performed in each of the individual courts would be centralized under the Probate Court Administrator's office and improve efficiency and provide better accountability.
3) Judicial Compensation: The judges' Strategic Plan would implement a compensation system for probate judges based upon population and workload, eliminating a statutory formula based principally on court revenue. It is estimated that the proposal would save approximately $530,000. It should be noted that many judges would be facing reductions on compensation of twenty percent. Such formula also has provision to prevent any current judge from receiving a pay increase. The Governor's bill recommends a similar approach.

The two bills are dissimilar in other ways, primarily:

1) Court Consolidation: The Strategic Plan seeks to continue to promote voluntary court consolidations and to ensure that local communities are involved in the decision making process. The Strategic Plan proposes the General Assembly establish regional probate planning committees which would include all judges and municipal CEOs in the region, along with representation from court clerks, attorneys, and members of the public. The Governor's proposal seeks to replace the existing 117 courts with 36 districts that would share boundaries with the senate districts. Such a proposal faces certain difficulties. Many towns are split into more than one district. Several large municipalities would have two courts and cause confusion as to the proper venue for matters. Each proposal recognizes that the system may more economical with a reduction in the number of courts. Such action requires a delicate balance to ensure an efficient and responsive court system.

Certainly, the judges understand that these are difficult times for all in both government and the private sector. We are pleased to present this Strategic Plan for consideration by the Legislature and look forward to working further to ensure that the courts continue to provide appropriate, responsive, cost effective services to the people of the State of Connecticut.

As stated earlier, I am proud of the selfless efforts made by my colleagues in the Probate Assembly. I would like to point out that during the many deliberations of the various proposals members often inquired as to what the perceived wishes of the legislature may be. It is my belief that members of the Assembly remain committed to the process to restructure and strengthen the probate court system so that it may best serve the people of the State of Connecticut. On behalf of the Assembly, I look forward to an opportunity to work with this committee, the Legislature and the Governors office to accomplish that goal.

TESTIMONY FOR THE JUDICIARY COMMITTEE

SUBMITTED BY HON. LINDA M. SALAFIA,
JUDGE OF PROBATE, DISTRICT OF NORWICH

March 9, 2009

Senator McDonald, Representative Lawlor and distinguished members of the Judiciary Committee:

My name is Linda Salafia, Judge of Probate for the District of Norwich and past-president of the Connecticut Probate Assembly. I have been privileged to serve as probate judge for nearly 28 years. I do not have a law degree, nor do I have any other occupation outside that of probate judge. Prior to my election, I was clerk of the court for 7 years. It was my years of experience as a full-time clerk in a court with a part-time attorney judge, not a law degree, that resulted in my being elected as the first female, non-attorney probate judge in the history of the Norwich Probate Court.

I am writing in opposition to **Governor's Bill #6385** which calls, in part, for the consolidation of the probate courts to equal the number of State senatorial districts (Section 1 of 45a-2). The Bill further mandates that each judge of probate elected for the term that begins on or after January 5, 2011, shall be a member of the bar of the State of Connecticut, and shall have been a member of the bar for a minimum of ten years (Section 5(e) of Section 45a-18). There is no provision for the grandfathering of lay judges, many of whom have devoted years of competent, dedicated service to the residents of their districts.

With reference to Section 1 of 45a-2, I have long supported voluntary consolidation of the probate courts. During the past 14 years, I have served on various sub-committees of the Connecticut Probate Assembly each of which explored the possibility of voluntary consolidation. A number of workable plans were developed but ultimately did not receive a favorable majority vote by Assembly members. The plans were drafted by judges familiar with the geographical location of the courts within each probate region, with careful consideration given to population, approximate court workload, travel distance for court users, hospitals and convalescent care facilities in the area and availability of public transportation.

I firmly believe that establishing probate districts along senatorial district lines is not in the best interest of the residents of the State of Connecticut. If there is to be court consolidation, greater thought and careful consideration must be given to the creation of the larger districts. For example, the Norwich Probate District includes the towns of Norwich, Preston, Lisbon, Franklin, Voluntown and Sprague. All probate records from those towns, including Griswold which was a part of the Norwich District until 1979, are on file at the Norwich Probate Court. Only Norwich, Franklin, Lisbon and Sprague are included in the 19th Senatorial District. It would be a nearly impossible task to separate the records of each town, and would cause extreme hardship to many, including title

searchers, genealogists and, most importantly, users of the court. For example, Preston residents, who may have probated a number of estates of deceased family members in Norwich and are familiar with the court facility and court staff would be required to travel to a strange court in another District.

It appears that no consideration was given to an almost certain increase in attorneys' fees in many probate matters due to an increase in travel, nor to the potential cost of constructing new court facilities or renovating established courts to accommodate the newly-formed districts. I personally cannot fathom how requiring that residents of Andover, Columbia and Hebron, all in the 19th senatorial district, drive to the Norwich Probate Court, or that Norwich-area residents travel to the Columbia area would benefit anyone, except for attorneys. I am also at a loss to understand what is proposed for those towns, such as Montville, that now have one probate district, and if the Bill #6385 is passed, would have two courts: one part of the town in the 19th senatorial district and the other part of town in another senatorial district. For all of the above reasons, I am adamantly opposed to the proposed Section 1 of Section 45a-2.

Although I was somewhat surprised that the Governor's proposed Bill mandated that all probate judges be attorneys as of January, 2011, I was very surprised that there was no provision for grandfathering currently sitting lay judges, thereby eliminating their ability to run for re-election in 2010. In my opinion, failure to grandfather dedicated, highly qualified and experienced lay judges is a personal affront to each of us. Should this Bill pass, there is no doubt that decisions rendered by lay judges in the past will become suspect, and future decisions will no doubt be overly scrutinized since the Governor and the Legislature will have deemed lay judges, some of whom have capably and skillfully served for more than 25 years, unable to understand the law.

As I previously indicated, Norwich is a multi-town district that includes the towns of Franklin, Lisbon, Preston, Sprague and Voluntown. I may be unique in that I am a non-attorney judge serving a multi-town district that has a total population in excess of 52,000. I serve full-time in a very busy court that last year handled a weighted workload in excess of 3,700 matters. Our workload is comparable to that of the probate courts in Hamden, Danbury and Milford. I do not have an attorney on staff to assist me in writing legal decisions. My record speaks for itself. Since taking office in November of 1981, I have never recused myself out of fear that my lack of a law degree would compromise my ability to make a fair and just decision, nor have I ever been asked to recuse myself in favor of an attorney judge. I have handled thousands of involuntary commitment matters, and more than one thousand adoptions, removal of guardian and other children's matters. I have very successfully dealt with complex legal documents, determined title to real estate, constructed Wills and Trusts and acted upon detailed financial accountings in conservatorships, decedent estates and trusts. At no time have I felt that my non-attorney status has adversely affected my ability to do the job I was elected to do. I defeated a well-known, long-time attorney when I first ran for election in 1981 and since that time, I have run either unopposed or cross-endorsed. Despite the foregoing, the Governor of our State has decided that I am no longer qualified to serve as probate judge since I did not graduate from law school.

In a recent internet search, I found that approximately 40 states in the United States have lay judges serving in various courts. In fact, there are as many lay judges as attorney judges – more than 1800 non-attorney judges sit in New York State alone. These lay judges handle probate matters, juvenile cases, conservatorship matters, and in some states, divorce matters and even felony cases. Websites for courts in South Carolina, Kansas, Washington State, New York, Alaska and even Abilene, Texas all speak of the competence of lay judges.

Although I am not well-versed in the political process, it has long been my belief that our legislators are elected to serve as the voices of their constituents. It would therefore follow that if the voters in a probate district have chosen to elect a non-attorney as their probate judge, as currently is their Constitutional right, neither the Governor of this State nor the Legislature should have the authority to disregard the will of the voters and, through legislation, require that all probate judges be attorneys. I am aware that the distinguished senator from my senatorial district has also proposed a Bill requiring that, effective January 2011, all probate judges be attorneys, with no grandfathering of experienced lay judges. I have yet to determine how she feels she is acting in accordance with the wishes of her constituents when voters of 7 of the 11 towns in her district have elected and re-elected lay judges. I have discussed her proposal of this bill with a number of area voters, and they expressed indignation that such a Bill was proposed by their senator.

Thank you for the opportunity to present written testimony. Please do not vote for the passage of Governor's Bill #6385. It is not a solution to the challenges we face, nor is it the will of the people. If you have any questions, I would welcome an opportunity to speak with any or all of you. I will leave you to ponder this quotation from "Non-Lawyer Judges – The Long Road North" (*David Lee, Esq, 53 Chicago-Kent Law Review 565, (1977)*):

> *"Members of the Executive and Legislative Branches of government, where our laws are written and executed, do not require law degrees. It is axiomatic, therefore, that an unbiased and intelligent non-lawyer Judge is similarly able to interpret the law".*

Respectfully,

Linda M. Salafia,
Judge of Probate

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STATE OF CONNECTICUT
OFFICE OF POLICY AND MANAGEMENT

TESTIMONY PRESENTED TO THE JUDICIARY COMMITTEE
March 9, 2009

Robert L. Genuario
Secretary
Office of Policy and Management

Testimony Supporting

H. B. No. 6385
AN ACT CONCERNING REFORM OF THE PROBATE COURT SYSTEM.

Senator McDonald, Representative Lawlor and distinguished members of the Judiciary Committee thank you for the opportunity to offer testimony on H. B. No. 6385 AN ACT CONCERNING REFORM OF THE PROBATE COURT SYSTEM.

The probate courts have existed in some form for over 300 years in Connecticut. As you know, they are statutory courts, and, as such, have only the jurisdiction and authority granted by the state legislature. Currently, probate courts have jurisdiction over a wide variety of matters including the disposition of trusts and estates, appointing guardians and conservators, and granting name changes.

Unfortunately, the state's probate court system is facing significant fiscal issues. The system, by way of its administration fund, is facing a potential shortfall in fiscal year 2011 and is projecting deficiencies in all future years. Currently, the system is funded by revenue collected in cases and a state appropriation of $2.5 million dollars.

In confronting this fiscal challenge we must be candid about the solution. Consolidation of the tremendous amount of courts (117) is needed for any significant cost savings.

The Governor proposes to eliminate the shortfall and ensure the courts remain more locally based than the state superior court system, yet self-sustaining. This proposal eliminates the need for any additional state funds and the current appropriation. This proposal would be effective January 1, 2011 at the expiration of the existing elected judges' term.

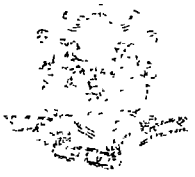
The Governor's proposal includes the following:

1. Merge the existing courts from 117 to 36. Jurisdiction would be determined by state senatorial district. The elimination of 81 judges and a modest 20% reduction in non-judicial staff expenses will result in significant savings.

2. Compensate all probate court judges on a weighted workload basis with a range of compensation between $80,000 and $110,000. Require that all staff, including judges, work a minimum of 20 hours per week to qualify for health benefits and any pension plan.
3. Require that all courts be open not less than 40 hours per week.
4. Require that all probate court judges be attorneys, members in good standing of the Connecticut bar for not less than 10 years, and residents of their district. Judges would continue to be elected.
5. Eliminate the statute that provides any additional retirement credit for any judge that is displaced. This incentive to consolidate courts has been available for several years and few courts have consolidated.
6. Centralize certain of the accounting and payroll functions of each court in the Office of the Probate Court Administrator. It is estimated that this change may result in a savings.
7. Allocate each court's budget for staff and miscellaneous expenses by the Office of the Probate Court Administrator based upon weighted workload of the court.
8. The Probate Court Administrator would be responsible for balancing the budget for the probate court system, including all employee health care benefits and pension contributions, based upon revenue generated by the probate courts.

The probate courts provide a very valuable service to the people of Connecticut. The Governor's proposal ensures they are self-sustaining, are open more hours for the people they serve, and are still locally based. We look forward to working with the General Assembly and the probate court judges for meaningful reform this session.

Thank you for this opportunity to offer testimony on this important matter. We ask for the committee's favorable consideration.



M. Jodi Rell
GOVERNOR
STATE OF CONNECTICUT

TESTIMONY PRESENTED TO THE JUDICIARY COMMITTEE
March 9, 2009

M. Jodi Rell
Governor

Testimony Supporting

H. B. No. 6385
AN ACT CONCERNING REFORM OF THE PROBATE COURT SYSTEM.

The probate courts have existed in some form for over 300 years in Connecticut. These courts were established to administer estates of decedents and distribute their property.

The legislature has expanded the probate courts' jurisdiction over the years. They now handle a variety of matters in addition to that traditional estate administration role. Probate courts are involved in matters relating to conservatorships; children's matters, including guardianship and temporary custody, termination of parental rights, and adoptions; commitment of mentally ill children and adults; guardianship of persons with mental retardation; and name changes.

The probate court system has for most of its history been self-supporting and did not receive assistance from the state's general revenue. The probate court administrator, appointed by the chief justice of the state Supreme Court, has general oversight of the probate system.

The probate courts are statutory courts, and, as such, have only the jurisdiction and authority granted by the state legislature. Probate court decisions may be appealed to the superior court.

The state's probate court system is funded by revenue collected in cases and also through a state appropriation of $2.5 million. The system, by way of its administration fund, is facing a potential $5 million shortfall in FY 2011 and is projecting deficiencies in all future years. Consolidation of the large number of district is needed in order to achieve cost savings.

My proposal will eliminate the shortfall and ensure the courts remain more locally based. This proposal eliminates the need for any additional state funds and the current appropriation of $2.5 million.

I believe this measure is a prudent and efficient reform of this outdated system and will assure better service at a lower overall cost. I hope you will give this bill your favorable consideration.

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TESTIMONY BEFORE THE JUDICIAL COMMITTEE
SUBMITTED BY ATTORNEY MARILYN DENNY
MARCH 9, 2009

IN SUPPORT OF H.B. 6626; H.B. 6629; H.B. 6385 and

IN OPPOSITION TO S.B. 576; H.B. 6027

I am an attorney with Greater Hartford Legal Aid. As such, I represent elderly and disabled clients in the Greater Hartford area who will be affected by the committee's vote on these bills.

I want to speak in support of H.B. 6626: An Act to Transfer Jurisdiction Over All Contested Probate Cases to the Superior Court.

The legislature has read and heard a great deal about contested cases in Probate Court. It passed legislation in 2007 which increased greatly the protections available to people who are subject to conservatorship proceedings. At that time, there was much discussion about this being the first step and that "culture change" would be required in order to see these protections realized. In my experience, this "realization" has been slow or non-existent. Therefore, transfer of such cases to the Superior Court, where culture change is not required, must be considered. In addition, transfer of contested cases must be part of the current discussion on court consolidation. Such transfer would give contested proceedings heightened procedural protections when serious deprivations of liberty and property are being considered.

I also want to testify in support of H.B. 6629: An Act Concerning Guardian Ad Litems and Conservatorships.

The bill eliminates the appointment of a Guardian Ad Litem in conservatorship cases. GALs have no place in these proceedings. An attorney is appointed to represent the person for whom a conservator is proposed; if required a conservator is appointed who must report to the Probate judge; a GAL is not is required by the Probate Rules unless a person does not have a court-appointed attorney. The statutory changes made in 2007 mandate use of a substituted judgment standard in these cases, while the GAL operates under the now obsolete standard of "best interest." The appointment of a GAL results in burdening the modest estates of the person and often adds an element of unhelpful and unnecessary interference in the lives of the conserved person and/or the conservator, especially when the conservator is a family member. Elimination of the GAL from conservatorship proceedings will make the process more consistent and more cost effective- the latter by eliminating taxation to either the Probate funds for indigents or to the limited resources of conserved people. .A good probate judge through use of the many resources available to it, can finds the means to obtain any information a GAL could obtain.

I also want to support the governor's efforts to reform the probate system. H.B. 6385: An Act Concerning Reform of the Probate Court System, is a thoughtful plan. It is long overdue. At a time when we are reducing supports for some of the frailest of our citizens, administrative revisions that are cost-saving are critical. What the Governor proposes would make such savings and would not impair the protections afforded to those who need the assistance of our court system.

I want to speak in opposition to S.B. 576: An Act Concerning the Connecticut Uniform Protective Proceedings Jurisdiction Act.

About a month ago I was invited by some who favor this act to join a discussion of its merits and limitations. This proposed act has not been properly vetted. It was presented to the Elder Law Section of the CBA without time to review it, and it was supported by that section by a narrow vote At a minimum, it must be discussed by all of the "stakeholders" including people in the disability community and other attorneys who practice in the probate courts. It does not harmonize with our existing laws; it will undermine the protections and reforms implemented by P.B. 07-116; it will make Connecticut residents vulnerable to the conservatorship laws of other states which do not offer the protections that our laws do. It abrogates the responsibility of Connecticut to protect its citizens and those entering our state to adequate due process protections concerning the curtailment of their civil liberties. For the convenience of a few, it jeopardizes the place Connecticut now holds in terms of having an advanced statute which guarantees due process.

Along with other colleagues, I am attaching to my testimony substitute language for S.B. 576, which would provide heightened protections against conserving individuals who are not residents or domiciliaries of the probate district, while allowing probate courts limited authority to appoint a temporary limited conservator in emergency situations. In this sense, it makes modest changes to what the legislature endorsed in 2007, while taking into account some of the objections to that legislation raised by attorneys who currently support the Uniform Protective Proceedings Jurisdiction Act. It addresses some of their concerns without undermining our statutory scheme.

I also opposed S. B. 6027: An Act Concerning Probate Court Reforms. The probate courts should not be given appellate jurisdiction; the financial emergency which we face does not allow time to study consolidation – a study which has been going on for as long as I can remember, with little in the way of positive results.

Thank you for your time and attention.

Testimony before the Judiciary Committee
Submitted by Attorney Veronica Halpine
March 9, 2009

IN SUPPORT OF H.B. 6626; H.B. 6629; H.B. 6385 and

IN OPPOSITION TO S.B. 576; H.B. 6027

I am an attorney with Greater Hartford Legal Aid. I represent elderly and disabled clients in the Greater Hartford area who will be affected by the committee's vote on these bills.

I am here to ask for your support for **H.B. 6626: An Act to Transfer Jurisdiction Over All Contested Probate Cases to the Superior Court**. This bill is modeled after the bill that consolidated the county courts into the statewide judicial system. It will transfer original jurisdiction of all contested cases from the probate court to the superior court. This is not a new idea and it should be part of the current discussion on court consolidation. Conservatorships result in serious deprivations of liberty and property. These proceedings should be given heightened procedural protections and be afforded the same formality and decorum afforded matters brought in the superior courts.

I also ask for your support for **H.B. 6629: An Act Concerning Guardian Ad Litems and Conservatorships**. This bill will eliminate the appointment of Guardian Ad Litems in conservatorship cases. GALs have no place in conservatorship proceedings. The appointment of a GAL in connection with an original involuntary conservatorship proceedings deprives the respondent of due process of law. GALs are appointed in conservatorship proceedings as a counter balance to the individual's defense and to shield the probate judge from the responsibility of a difficult decision. They interfere with the role of the attorney, the court and of the conservator. They are an improper delegation of the probate court's responsibility and operate in derogation of the statutes. The appointment of a GAL before someone is conserved is tantamount to having a GAL in a criminal proceeding, undermining the accused's defense. It is in fact worse than a criminal proceeding because the issue IS whether your judgment is impaired and the appointment of a GAL already presumes you are impaired. Deprivations suffered under conservatorships are drastic and, more often than not, permanent. They result in life sentences.

GALs hold the role of determining best interests, a role borrowed from juvenile proceedings. People brought before the court in conservatorship proceedings are adults, not children. They are not legally incompetent. They are allowed to have preferences, including preferences that others disapprove of. Connecticut follows the substituted judgment, not best interest, standard. A third party's opinion of the respondent's 'best interest' is not relevant to the conservatorship proceedings. The people appointed as GALs are not necessarily qualified to state a superior opinion about best interests, however, once they have been given the title, their opinion is according greater weight.

GALs are an unnecessary expense. GALs are almost always attorneys. They stay on retainer even after a conservator has been appointed and the conserved individual already has a substitute decision maker. The conserved person thereafter bears the expense of an attorney, a conservator and a guardian ad litem (and attorneys for all of them if you seek to remove them). The appointment of GAL or continued appointment after a conservator is creates the potential for conflict, is unnecessary and is a waste of money.

I also ask you to support the governor's efforts to reform the probate system, **H.B. 6385: An Act Concerning Reform of the Probate Court System**. It is a thoughtful and courageous plan.

I have attached to my testimony **substitute language for S.B. 576.** The substitute language will provide heightened protections against conserving individuals who are not residents or domiciliaries of the probate district, while allowing probate courts very limited authority to appoint a temporary limited conservator in emergency situations.

I ask for your **strenuous opposition** to **S.B. 576: An Act Concerning the Connecticut Uniform Protective Proceedings Jurisdiction Act**. This bill will lead to more 'granny snatching' instead of less. It does not harmonize with our existing laws. It is an amalgamation of other states's laws. It introduces alien terminology and will cause confusion in the operation of our statutes. There appears to have been little effort to conform the language or process to our laws. It will eviscerate the protections and reforms implemented by P.A. 07-116. It purports to be a uniform law but very few states have enacted it. There is no urgency to enact it before seeing what other states adopt.

SB 576 will make Connecticut residents vulnerable to the conservatorship laws of other states. And it should be of concern to those 'out-of-staters' who are not keen on what happens to New York and New Jersey residents in this state. I get calls from people all over the country asking for my help on probate matters. I have the distinct impression this is not a time to be allying ourselves with the procedures in place in some of the other states. SB 576 will increase the incidents of in-state forum shopping. It also raises the question of how this act will mesh with our own curious system of 117 courts.

SB 576 exhibits all the vices of a tradition and practice that refuses to change. It maintains the touted informality of the system. It contains very few procedural protections. A good deal of it, in fact, was drafted by the National Guardianship Association and other "stakeholders" who profit from the elderly. It confuses 'forum' with jurisdiction. SB 576 fails to comprehend that a judge lacking subject matter jurisdiction does not have authority to pick up the phone and have that ex parte communication with a judge in another state. The failure to understand this basic legal concept will add fuel to the fire in a state where probate courts have difficulty 'keeping their hands off' people from out of state. In perhaps an excess of good will, probate courts sometimes overlook procedural technicalities, including evidence that someone lives in another state. Even in the rare case where the judge dismissed the case for

lack of jurisdiction, he still held a status conference and interjected himself into the person's affairs.

Once someone is conserved by an out of state probate court, SB 576 saves them the "trouble" of having the conservatorship reviewed under the laws of one's own state. Since it was written by conservators, its essential premise is that conservatorships are necessary and beneficial. If the uniform act were drafted by someone with a different perspective, due process would be no trouble at all. The act also presumes that the money spent conserving someone is well spent, but a second review of that process in the home state is too costly. Whose money are we talking about anyway? Our client, Florence Kidwell, thought the money spent securing her freedom was well spent.

SB 576 expands the jurisdiction of probate courts by allowing them to investigate, consider and balance elements that would confer jurisdiction. A writ of habeas corpus will no longer be available to free victims of the unlawful assertion of jurisdiction. All probate courts will always have the right to interject themselves unwelcomed into the lives of people, if only to inquire about where the case should be. P.A. 07-116 made it clear that they do not have that right. SB 576 will expand the scope of jurisdiction and in so doing deprive the victims of an important defense.

Even if the committee does not share my shock and concern over this bill, I hope it will table the proposal until Connecticut residents have had more time to consider its impact and ramifications.

I also urge you to oppose **S.B. 6027: An Act Concerning Probate Court Reforms**. The probate courts should not be given appellate jurisdiction as a means to generate more revenue nor to undermine the necessary consolidation by shifting existing probate judges to the appellate docket. The probate courts should be required to consolidate now, not be given yet another opportunity to study consolidation. I object to the pay offs and inducements for voluntary consolidation at a time when all state employees and many state residents have concerns over keeping their jobs.

45a-186 should not be repealed and replaced by section 12 of this bill. The provision allowing the superior court to reject the appeal and refer it back to probate is very disturbing. Particularly when the subtext to this reform bill is the need to generate revenue. I very much doubt it would survive a constitutional challenge. Subdivision (h)(3) does not exempt conservatorship cases from the remand section because appeals from probate decisions are brought pursuant to section 45a-186, not 45a-644 to 45a-663, inclusive. The superior court is the only lifeline for people involuntarily conserved, people locked away in nursing homes and those suffering from the caprices and expense of the "court appointed" conservator. Moreover, attorneys who will not or cannot practice in the superior court will be steering their unwitting clients into the legal limbo of the probate appeal process. The reference to a return date is inappropriate as these are not mesne proceedings and appeals are initiated upon the filing of the complaint. There are other drafting errors, as well, such as the language in subdivision (2) stating that the appeal shall be both de novo and on the record.

CONNECTICUT LEGAL RIGHTS PROJECT

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JUDICIARY COMMITTEE March 9, 2009
Testimony of Sally R. Zanger, Staff Attorney, in support of HB-6629, HB-6626,SB-126, SB-141, H.B.-6385 and SJ-63, in opposition to SB-576, SB-6027 and HB-5848 and attaching substitute language for SB-576.

Sen. MacDonald, Rep. Lawlor, distinguished members of the committee, I am a staff attorney with the Connecticut Legal Rights Project (CLRP), which is a legal services organization that advocates for low-income individuals in institutions and in the community who have, or are perceived to have, psychiatric disabilities. We promote initiatives that integrate clients into the community. While we do not represent our clients in probate court proceedings where they have court-appointed counsel, frequently we do assist them and their counsel and we represent them on appeals of conservatorship proceedings. We certainly hear about the problems and try to help people correct them. Tom Behrendt, our legal director emeritus, who has also submitted testimony today, worked with a diverse group of lawyers two years ago on the "Killian Committee" that drafted P.A.07-116 which repaired the conservatorship statutes in several ways. I am testifying today in support of and in opposition to several bills. In summary I am here to protect and defend P.A. 07-116 which seems to be at great risk from many of the proposals before you today.

PA 07-116 came into being in part as a response to several terrible cases of overreaching by probate courts which conserved individuals over whom they had no jurisdiction. The act had several important aspects: First, it clarified and made very explicit already existing due process protections, for example, the right to counsel, including counsel of one's choice; the right to notice, including a clear explanation of terms like "involuntary representation;" the right to retain rights not explicitly delegated to conservators. Second, P.A.07-116 simplified the complex idiosyncratic probate appeal procedure to a simpler one that parallels the appeal process for administrative hearings. Finally, it modernized key aspects of the conservatorship statute by changing the definitions of incapacity, the standards for imposing conservatorship and the duties of conservators. The definitions now address a person's ability to make decisions and express preferences and to function with assistance. The standard now requires that less restrictive alternatives to conservatorship be exhausted prior to the imposition of a conservatorship and forbid the imposition of a conservatorship if a person is able to manage with assistance. Conservators are now required to promote the independence of the conserved person and to make decisions on their behalf only when required and with reference to their expressed preferences, past decisions and lifestyle choices. **The result is Connecticut has a statute considered a model, state of the art conservatorship statute.**

At the public hearings for that bill, there was talk about the need for culture change to make the aspirations of P.A. 07-116 a reality. There has been some such change—I have been to excellent workshops, trainings and presentations given by probate court judges for the lawyers and conservators that they appoint and for their constituents. I have observed hearings where the judges have carefully adhered to the new standards, have been scrupulous about explaining the process to the respondent and have developed their own orders to avoid using the boilerplate forms that do not do justice to the statute. But I have also seen far too many reports of court

appointed counsel that fail to even attempt to make their clients' cases, and far too many conservatorship orders that are boilerplate, and do not take into consideration each of the duties that should or should not be delegated to a conservator. Under these circumstances, it is not surprising that there are many bills before you that affect probate and PA 07-116 in particular.

There are several bills today that I support, and that CLRP supports that we ask you to enact. These are aimed at solving some of the technical deficiencies of PA 07-116 and dealing with the need for change in the probate court system. **We support:**

1. HB-6629 An Act Concerning Guardians ad Litem and Conservatorships. Please see separate written testimony submitted on that bill.
2. HB-6626 An Act to Transfer Jurisdiction Over All Contested Probate Cases to the Superior Court.
3. SB-126 An Act Requiring Probate Judges to be Attorneys
4. SB-141 An Act Concerning Review of G.A.L. and Expenses
5. H.B. -6385 An Act Concerning Reform of the Probate Court System
6. SJ-63 Resolution proposing an Amendment to the Constitution of the state to eliminate the Probate Courts.

There are several bills today that will cut the heart out of the reforms of PA-07-116 and we **oppose them:**

1. SB-576-An Act Concerning the Uniform Adult Guardianship and Protection Jurisdiction Act. (I attach proposed substitute language for this bill.)
2. HB-6027-An Act Concerning Probate Court Reforms
3. HB-5848 An Act Permitting Retired Probate Judges to Perform Certain Functions

I. We strenuously oppose SB-576 the Uniform Adult Guardianship and Protection Jurisdiction Act. This bill, which has been promoted heavily for urgent passage, is not urgent at all and is one that eviscerates P.A. 07-116. While apparently keeping some of the language of the due process protections and the statutory notice sections of P.A. 07-116, this bill provides a host of ways to avoid all of those protections and requirements, gives broad discretion where there is none now (and should not be) and even expands the subject matter jurisdiction of our limited jurisdiction probate courts. While P.A. 07-116 was enacted in part in reaction to the jurisdictional over-reaching of Connecticut Probate courts, this act inserts options to overreach. Connecticut statutes had forbidden taking jurisdiction of people who were not Connecticut residents or domiciliaries, and then P.A.07-116 included an exception (for people located in the state, with detailed directions for returning such people to their homes. This bill sweeps those safeguards away, and permits instead, ex parte phone conversations between judges from different states to decide who should take jurisdiction. There is no understanding of in rem jurisdiction at all in this proposal. Instead there is an assumption that at least one state and maybe more will have jurisdiction and that the goal is to be sure that a person is put under the authority of a conservator. That is not the goal of our statute in Connecticut, and the basic goals of our legislative scheme should not be reversed in this manner—in a hurry and for the dubious purpose of promoting uniformity in state laws. (If there is no jurisdiction, no Connecticut judge should be making any phone calls. He or she should be dismissing the case.) If a person from another state if located in Connecticut and needs the assistance of the court, there is already a robust provision of the law requiring attempts be made to return the person home, and failing that, that a temporary conservatorship be instituted. That is what our statute says and this

Legal Services and Greater Hartford Legal Aid. This is important because at Connecticut Legal Rights Project, our focus is on the rights of people with disabilities, and the Elder Law Group was able to consider this language and its affect, if any on their clients. This does not apply to children, or to people without conservators involved in litigation other than a conservatorship proceeding, so it preserves the protection and assistance that might be required in those situations. This solely removes a source of difficulty, an unnecessary expense to either the conserved person, the respondent or the courts in the case of an indigent person. I have included separate more detailed written testimony about this bill.

V. We strongly support HB-6626 An Act to Transfer Jurisdiction Over All Contested Probate Cases to the Superior Court. There are a number of different probate reform packages in front of you today, including two comprehensive and very different proposals from the probate court administration and the Governor. One proposes considering and discussing consolidation for two years and offering some incentives. One abolishes and consolidates a number of the probate courts. There is another, perhaps the simplest of all, that proposes a constitutional amendment to abolish the probate courts altogether. We support that proposal, too but recognize that it might not pass this year. We support and draw your attention to a bill that begins to address the fiscal issues and the need for culture change in the probate courts. **HB-6626** transfers contested matters to Superior court, where there is an open court, oversight and uniform rules of practice. This would leave with the probate court matters which do not require a high level of due process protection. This bill would reduce the caseload in probate court without dramatically reducing its revenue and therefore likely make it unnecessary to provide additional funding to the probate court. The reduction in case load would make consolidation, which is coming, one way or another, simpler and such consolidation would also reduce the cost of the probate courts. Those savings could be put toward adding personnel as necessary in the superior court.

VI. We Support H.B. -6385 An Act Concerning Reform of the Probate Court System This is the Governor's Probate Reform Bill and contains many measures which will improve the operation of the probate courts.

VII. We Support SB-141 An Act Concerning Review of G.A.L. and Expenses but urge that it be amended to include reviews of expenses of conservators and their attorneys. The amount of money a conserved person is forced to expend on guardians, lawyers, conservators and lawyers for the guardians and conservators should the conserved person challenge the actions of any one of these or seek to have one of them removed is staggering. It bears scrutiny.

VII. We support SB-126 An Act Requiring Probate Judges to be Attorneys.

Thank you for your time and your attention to these important matters.