

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

**BOSN:** Welcome to the Judiciary Committee. I am Senator Carolyn Bosn from Lincoln, representing District 25, which is Southeast Lincoln-Lancaster County. The committee will take up bills in the order posted. This is a public hearing and it's your opportunity to be part of the legislative process and to express your position on the proposed legislation before us. If you are planning to testify today, please fill out one of the green testifiers sheets that are on the table at the back of the room. Be sure to print clearly and fill it out completely. When it is your turn to come forward to testify, give the testifier sheet to the page or to the committee clerk. If you do not wish to testify but would like to indicate your position on a bill, there are also yellow sign-in sheets back on the table for each bill. These sheets will be included as an exhibit in the official hearing record. When you come up to testify, please speak clearly into the microphone, telling us your name and spelling your first and last name to ensure that we get an accurate record. We will begin each bill hearing today with the introducer's opening statement, followed by proponents, then opponents and finally, anyone in the neutral capacity. We will finish with a closing statement by the introducer, if they wish. We will be using a 3-minute light system for all testifiers. When you begin your testimony, the light on the table will be green. When the light changes to yellow, you have 1 minute remaining, and when the light changes red, you need to wrap up your final thought and stop. Questions from the committee may follow. Also, committee members may be coming and going during the hearing, but this has nothing to do with the importance of the bills being heard. It's just part of the process, as senators have those to introduce in other committees as well. A few final items to facilitate today's hearing. If you have handouts, please bring up 12 copies and give them to the page. Please silence or turn off your cell phones. Verbal outbursts or applause are not permitted in hearing rooms. Such behavior may be cause for you to be asked to leave the room. Finally, the committee procedures for all committees state that written position comments on a bill to be included in the record must be submitted by 8 a.m. on the day of the hearing. The only acceptable method of submission is via the Legislature's website at [nebraskalegislature.gov](http://nebraskalegislature.gov). Written position letters will be included in the official hearing record, but only those testifying in person before the committee will be included on the committee statement. Also, you may submit a position comment for the record or testify in person, but not both. I will now have the committee members with us today introduce themselves, starting with my left.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

**HALLSTROM:** Thank you, Chairman. Bob Hallstrom, representing Legislative District 1, covering the counties of Otoe, Johnson, Nemaha, Pawnee, and Richardson.

**STORM:** Good afternoon, everybody. Senator Jared Storm, District 23, all of Saunders, most of Butler, and all of Colfax County.

**STORER:** Good afternoon, and, and welcome. Tanya Storer, District 43, which is Dawes, Sheridan, Cherry, Brown, Rock, Keya Paha, Boyd, Garfield, Loup, Blaine, and Custer.

**HOLDCROFT:** Rick Holdcroft, District 36, west and south Sarpy County.

**DeBOER:** Good afternoon, everyone. My name is Wendy DeBoer. I represent District 10 in northwest Omaha.

**McKINNEY:** Good afternoon. Terrell McKinney, I represent District 11, north Omaha.

**ROUNTREE:** Good afternoon. Victor Roundtree, representing District 3, Bellevue, Papillion, and central Sarpy County.

**BOSN:** Also assisting the committee today, to my immediate left is our legal counsel, Tim Young. And to my far right is our committee clerk, Laurie Vollertsen. Our pages for the committee today are Ruby Kinzie, Al-- Alberto Donis, Ayden Topping. With that, we will begin today's hearings with LB99, Senator Spivey. Welcome to your Judiciary Committee.

**SPIVEY:** Thank you. Thank you, Chair Bosn. And thank you all Committee members. Ashlei Spivey, A-s-h-l-e-i S-p-i-v-e-y, representing District 13 in northeast and west Omaha. So I'm really excited to be in front of you all today. Actually, it's my first committee hearing. And so I'll-- a lot of firsts today in the Legislature-- to introduce LB99, which really builds on reforms that have been in place that have come in front of this committee multiple times. This bill addresses the use of restrictive housing and the practice of double bunking within those units in the Nebraska correctional system. You do have in front of you a one-pager that outlines some of my key points around the bill, as well as the Inspector General's report to accompany that. This bill is really about reforming a practice that does more harm than it does benefit, and, and may provide in ensuring that Nebraska correctional practices prioritize safety, rehabilitation, and accountability. And this is not just in this moment now, but really thinking about long-term outcomes, and ultimately, that which will be carried into our communities. Restrictive housing, what many recognize as solitary

confinement, is a deeply harmful practice. While it is intended as a tool for managing safety, when it's overused, it creates profound challenges for incarcerated individuals, correctional staff, and then the broader public. Restrictive housing confines individuals to a cell for the majority of the day with minimal human contact and little to-- little to no access to natural light or meaningful activities. Research has been really clear that this practice creates more harm than it does help, so you are thinking the compounds around mental health and what we're seeing, and then again, as folks are entering back, entering back into community, what does that look like? Even as little as 15 days in restrictive housing can lead to lasting psychological damage. Studies also confirm that individuals often develop anxiety, depression, paranoia, PTSD, and become more suicidal after being isolated in this way, I have not been in solitary confinement or incarcerated in this way, but I do think about my personal experience during the pandemic, right, when we are in isolation and what that did to folks and mental health, and we've seen that. And so imagine now, when you are having less autonomy over your body when you're inside of a, a correctional system and that's being used, too, you can see those compounded outcomes. For those already dealing with serious mental health challenges, restrictive housing worsens symptoms, creating barriers to recovery and stability. Brain imaging studies also reveal that prolonged isolation alters brain function, often resulting in impairments similar to those seen in individuals with traumatic brain injury. This harm does not end when the person leaves prison. Restrictive housing creates a barrier to reintegration, which is an important piece of that rehabilitative process. Individuals subjected to prolonged segregation often struggle to maintain stable housing post-release. Many individuals start to self-medicate, creating substance abuse issues to cope from the trauma, and mental health symptoms from forced isolation, increasing the likelihood of addiction and recidivism. Research from the Vera Institute of Justice shows that individuals released directly from restrictive housing are more likely to re-offend. By creating conditions that hinder re-- rehabilitation, we are compromising public safety, not protecting it. In Nebraska, we know that this issue is compounded because we have an overcrowded prison system and it's also understaffed. The Inspector General of Nebraska Corrections reported that last year, 42 individuals spent over 180 days in restrictive housing, well beyond the internationally recognized 15-day limit, which is a part of the amendment to this bill. Nine individuals were held in these conditions for over 2,000 days, nearly 6 years of isolation. So right before COVID, people have been in isolation. We must ask ourselves, what are we achieving by inflicting these

conditions? There is no conclusive evidence that the use of restrictive housing improves safety. However, our outcomes show that this practice fails to rehabilitate, protect, or prepare citizens for reintegration. I really think it's imperative for us to explore alternatives that will actually contribute to our shared goals of accountability, rehabilitation, and safer outcomes for all. And that's what this bill does. LB99 proposes to limit restrictive housing to more there-- to no more than 15 consecutive days. This is not only a humane reform, but also supported by evidence. To address safety concerns for both staff and incarcerated individual-- individuals, LB99 advocates for evidence-based alternatives that are already showing success in Nebraska and other jurisdictions. NDCS has been-- has seen promising results from intentional peer support programs, which have been paired-- which pair trained, incarcerated individuals with others to provide mentorship and de-escalation support. And then, there are facilities across the country that have successfully implemented structured units that provide therapy, education, and skills training. These behavior intervention units address the underlying causes of disruptive behavior, leading to lasting improvements. By equipping staff with de-escalation techniques and trauma-informed practices, facilities can provide-- prevent incidents that may otherwise lead to restrictive housing placements. Nine-- LB99 also prohibits double bunking in restrictive housing, or the practice of housing 2 people in a cell designed for a single inmate, unless such inmates agree to the double bunking. We have seen 2 incidents of death because of involuntary double bunking, and the 2024 Inspector General's report addresses this. In 2017, an incarcerated man was strangled by his cellmate in their double bunk restrictive housing at the Tecumseh State Correctional Institution. And then in 2022, another incarcerated person was murdered by their cellmate in a double bunked restrictive housing. So again, we have seen the impacts of what that looks like, and this bill hopes to create more reforms around it. I have received the fiscal note, which does look identical to the fiscal note that was brought last year by Senator Vargas, despite that there are less people using and, and being placed in restrictive housing. I am committed to working with the Department of Corrections around the fiscal note and to making sure that we do have a compromise that allows for the intention of this bill, as well makes efficient, effective use of our resources. So in sum, I would just like to add that LB99 builds on reforms that have already been in place, right. I know that there have been a lot of folks working inside of this Legislature, outside of this Legislature, to really make sure that we can have an eff-- effective, safe rehabilitative system. And this, it's just adding to the value of that work. I urge you to support this

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

bill, and I think together that we can ensure that Nebraska's, Nebraska's correctional system reflects our values of safety, accountability, and human dignity. I really appreciate your time and welcome any questions that you may have.

**BOSN:** Thank you, Senator Spivey. Are there any questions from the committee? Senator DeBoer.

**DeBOER:** Thank you, and congratulations on your first hearing.

**SPIVEY:** Done and done.

**DeBOER:** Can you speak to the serious mental health issue part of this bill? So one of the things that's within the bill, as I was looking at it, is that you want to restrict those who have a serious mental illness from certain kinds of restrictive housing. And since a lot of our committee is new this year and will not have heard that portion of the bill, could you kind of give us more information about that one, as well?

**SPIVEY:** Yeah. So in the bill, this is-- starts on page 4. And so we know that, as I mentioned in the introduction, that the isolation and components compound into mental health issues. And so best practice is to not have folks that have a diagnosed mental illness to be able to use restrictive housing. There are components of our correctional system that have specific built-out units for people with diagnosed mental health, so RTC. And so folks that have a mental illness that has been diagnosed, instead of going to solitary confinement or restrictive housing to provide support or safety, they would go to RTC instead. And so this bill just cleans that up and defines what we mean by mental health and what does that access point look like.

**DeBOER:** Because at the time-- at, at, at the current time, what's happening in our correction facilities is that if they have a serious mental health-- serious mental illness but they're on medication, then that's-- the Department has said, well, that doesn't count as a serious mental illness. Is that, is that right?

**SPIVEY:** Yes. Yes, from my understanding, yes.

**DeBOER:** OK.

**SPIVEY:** And so this just cleans that up and defines that regardless of medication, that if you have that diagnosis, that you are being seen and supported in RTC versus using restrictive housing as an intervention.

**DeBOER:** Thank you.

**SPIVEY:** Thank you for your question.

**BOSN:** Any other questions? Senator Hallstrom.

**HALLSTROM:** Senator, just for clarification, we prohibit solitary confinement. Currently, the language that's being eliminated just tells us what solitary confinement is without establishing parameters for time, as you do within the definitions. Explain to me-- right now, it says it's not solitary confinement if an inmate is confined in that particular situation for less than 22 hours a day.

**SPIVEY:** So, yes. Let me make sure I understand your question. Let me know if I'm not answering it correct, Senator. So right now, the, the way solitary confinement is defined is based on days. And so what we've updated in this language is just the definition of solitary confinement. And we looked at it from a week's standpoint, the consecutive days. And so, they are still used and housed majority of the day, but within that day period versus week, they have time out of their cell. And they cannot be in isolation for more than 15 consecutive days. So it's just a redefining of what we mean by solitary confinement, and then the time periods in which it can be used.

**HALLSTROM:** Is restrictive housing and solitary confinement different?

**SPIVEY:** Those are used interchangeably.

**HALLSTROM:** So it's OK to keep somebody in solitary confinement for 21 hours and 59 minutes but not 22 hours?

**SPIVEY:** Yes. Correct. So, yes, it just sets parameters on the time period for that restrictive housing for that day. And then it looks at it from that 15-day period.

**HALLSTROM:** Thank you.

**BOSN:** Any other questions from the committee for this witness? Are you going to stay to close?

**SPIVEY:** Yes, I'll stay.

**BOSN:** Thank you. We'll--

**SPIVEY:** All right. Thank you all. Appreciate your time.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

**BOSN:** We'll now take our first proponent.

**FRAN KAYE:** Thank you, Senator Bosn. My senator. I voted [INAUDIBLE]-- and members of the Judiciary Committee. My name is Fran Kaye. F-r-a-n K-a-y-e, and I'm here to testify in favor of LB99. I don't think I have anything particularly memorable to say that would make me go first, but I have to keep my kid to the doctor, so I gotta run. So, thank you for letting me go first. Last fall, I don't know if anybody saw a small art show at a small art gallery here in Lincoln that was curated from work produced by people who were incarcerated or had been incarcerated. The focal point of that was an installation that represented a cell in solitary confinement, or just "the hole." And there were a series of poems, songs, personal memoirs that people gave regarding that. There was one piece of spoken word poetry. It started out, I'm fine. I can get through this. I'm fine. I know I can do this. I'm fine. I'm not fine. I'm scared. I'm not fine. I'm fine. It was very powerful. I wish everybody had been there to hear it. There was a woman who spoke about being in confinement in York, and feeling her mind just shut down, just shut down. Parts of it would shut down-- and not knowing what to do. It was very powerful. I wish everyone had been there for that, because that shows what a powerful psychological effect solitary confinement/restrictive housing has. I don't know how many people have been into the prison. I've been in hundreds of times over the past 40 years. I can walk out again, but still, when I hear that door go click behind me, it never feels-- fails to make me feel kind of ill. And that's not even solitary confinement. LB99, as Senator Spivey just said, will diminish the use of restrictive housing for vulnerable persons and will end the dangerous practice of double bunking that has directly caused two prison murders since 2017, with another still under investigation. The Office of Inspector General has several times called us to quit it. I mean, you get two desperate, scared, maybe kind of nutty people and you cram them together in a cell meant for only one, what could possibly go wrong? Right? Not a good idea. If we want our pris-- our prisons to make us safer, we will do it by healing and rehabilitating prison-- people who have done wrong. We cannot use practices that make people crazy, desperate, or dead. Please support LB99.

**BOSN:** Any questions? Are you able to stay for questions?

**FRAN KAYE:** I'm sure. Fine.

**BOSN:** OK. Any questions from the committee? Maybe not. OK.

**FRAN KAYE:** Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

**BOSN:** Thank you for being here. Next proponent. Good afternoon.

**DAVID KASEMAN:** Good afternoon. My name is David Kaseman. D-a-v-i-d K-a-s-e-m-a-n, and I live here in Lincoln. In preparing to be here today, the first thing I did was Google effects on inmates of solitary confinement. I was not surprised to find numerous studies showing the adverse and deadly effects of the practice. But I'm sure all of you have done the same. So I went to the next best resource, and that is my experience as a volunteer in prisons in Texas, starting in the early '90s, and now continuing here in Lincoln at the Penitentiary. During this time, I've come to know hundreds of inmates over the years through the Kairos Prison Ministry. Kairos is presently in 39 states, 500-plus units, and 10 foreign countries, and here in Lincoln since 2018. The program has existed in the south for more than 50 years due to its help in reducing violence in the units and reducing the rate of recidivism in the population. Last Saturday, 36 volunteers from Catholic and Protestant churches met to form the team that will visit the unit for four days in April. We present the Kairos program twice a year. We will meet 24-30 new participants and simply show them God's love, acceptance, and forgiveness using our motto: Listen, Listen, Love, Love. As part of the Kairos program, we get to know the residents intimately, for we return to the unit every Thursday evening after the 4-day weekend to show them that we care and that we're here then-- that we are here for the long run. We break into small groups of 3-6 men and do what's called prayer and share, where we review the week based on questions, such as when did you try and show God's love for another person; or when did you find it hard to do so? The men share at deep, vulnerable levels, continually, continually surprising all of us with the love they have for fellow participants. The other realization is how hungry they are for community and a place where they can be seen and heard, a place where they can share their story. All of this being said, we just ask that you see this community through the eyes of compassion, maybe even imagining that you have a brother, a sister, a son or a daughter in one of the units. Since 2009, over 920 bills across 40 state-- 46 states were introduced to restrict or end solitary confinement in some form. Most recently, 39 bills were passed in namely Arkansas, Louisiana, Colorado, and many other states. These states have come to realize that this practice may be a short-term solution, but in the long term only exacerbates the problems at hand. Thus, they have made changes by shutting down entire prisons, buildings, and units where the practice abounded, leading to more humane ways of dealing with the hard issues found in the prison. We just hope that Nebraska will not be one of the last states to come to this decision. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

**BOSN:** Thank you. Any questions for this testifier? Thank you for being here. Next proponent.

**JASON WITMER:** Thank you for having me.

**BOSN:** Thank you for being here.

**JASON WITMER:** Chair-- yes-- and Judiciary Committee. I'm-- apologize that quite a few of you, I have not had a first impression meeting. I'm Jason Witmer, J-a-s-o-n W-i-t-m-e-r, and I am here to support LB99, in the name of ACLU. However, I've spoken to several individuals who-- and my testimony is right there in writing, as well as something that was written on the fiscal report that I think it should be considered, and was spoken about in some phrases with Senator Spivey. But those who don't know me-- and I'm very open with this because I believe this is part of my atonement-- is I have been incarcerated. I'm, I'm actually a child of Nebraska, born in Lincoln, and lost my mother to domestic violence, and I went into the foster system. Eventually, as I became a teenager, I started getting involved in negative behavior. I grew up mostly in small town Nebraska, because that's how they moved me in the foster system: Syracuse, Seward, Plattsmouth, Auburn, several others. And eventually I let-- ended up in the prison system for some serious behavior. One was robbery and one was shooting another gang member. I don't make no excuses for my behavior. However, I've learned quite a bit inside the system. While in the system for at least 20 years, I have been in segregation at least, I would say a combined total of 20-- or sorry, a combined total of 8 years. They use something called administrative confinement, which justifies keeping people in long term without calling it punitive. And I was in there for fighting. I've been in there for-- at least twice for what was said I said, one time for two years for what was-- I was-- and I'm just saying in them terms is literally saying I said something put me in the hole for 2 years. While in the hole, I've seen individuals cover themselves in feces. I've seen-- I remember once I was down in cell 40, and the man next to me started asking me to ask for help and there was blood coming out from under his cell, and et cetera. There are just some of the, some of the stories. However, myself, who seems-- I would like to think I'm well-balanced. I was quite-- they gave me the name Little Crazy J because of my behavior. That was the individuals inside. If that can encompass kind of how off the rocker I was. Every time I came out the hole, it was fight, fight, fight. And I just want to say this in terms of we think that we're containing behavior and dealing with it, but in my, but in my case and majority of people I seen, it was just worse. Some people, their whole personality changed. And some of us, there was just an environment of

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

violence all the time. And the act of isolation is an act of violence. So I'm, I'm welcome to-- you're welcome to ask any questions. I just wanted to present a personal perspective of that. I know-- I can't really encompass it, but if you do have any questions, I'm open to ask them. If you have any questions on this, I'm also open to answer them. Thank you.

**BOSN:** Thank you. Are there any questions from the committee? Senator Storer.

**STORER:** So if it's not too personal of a question, what would you credit really your, your reform and being able to turn your life around to?

**JASON WITMER:** That's a-- thank you. That's a wonderful question. So I do talk about this and, and some of-- know about this, but the element of my-- the greatest element of my reform-- because maturity also starts to change your, your thinking and behavior, which made me question some of my thinking and behavior. However, I was still in the same environment. But it was older individ-- it was usually older individuals who were doing and have done quite a bit of time and some life-- they were doing life-- who decided to change their lives and started treating me like I mattered. And the interactions and the co-- and then-- which became me questioning how could I see somebody that's going to probably be here forever behave in a way with, you know, morality, behave in a way with some dignity and integrity. Even when they had hard days-- them came and go-- they still behaved like people. And they treated me the same. Even when there was days where some days it's Jason, you're too much. Come talk to me later. They didn't baby me. They didn't, you know, soft-coat things, but they didn't never-- they never forsaked me. And that mattered. And that's what I kind of-- that's what I believe I carry out here now. And so, it was the individuals in there. So when you hear the senator talk about IPS, intentional peer support, which is a training given to the men and women inside to reach out into their own community, that's literally an action of how can people who may never see the street actually see the street. Because I am a result of them. So that means everybody in there has that ability to touch the street. It just depends on the effect on the person that they're have-- they're interacting with. So thank you for asking.

**BOSN:** Senator Hallstrom.

**HALLSTROM:** I was going to ask a similar question but now-- I was going to ask about the level of assistance or rehabilitation that occurred

while you were incarcerated, through various interactions or programs, compared to things that happened after you were released.

**JASON WITMER:** Well, I'll, I'll refer back to that, because the more interactions I had with individuals trying to do something with themselves, and then I went to self-betterment clubs, whether they was Cultural Harambee, NASCA, MATA, them are all cultural clubs, but they all talked about betterment. Seven Step, which is a club that teaches re-- about recidivism and why you would go back [INAUDIBLE]. The more-- when I went to programs-- because I'm trying to get out, I'm trying to get certificates-- that I was actually finding myself a little bit more open to the program, rather than just how do I get the certificate to try to tell the Parole Board, hey, you should let me out. Hey, I've changed. I was actually more open to it because the interaction with them guys has opened me up to it. Coming out, I came out in 2016, so I've been out since 2016. They was just on the cusp of opening up more opportunities, so I didn't really see that, but I was right in the window. Because within a year, there was so much more reentry groups that are out here. And I could name a few of them, and they are wonderful. What-- the work they see, they'll, they'll work with people who are considered the hardest, and sometimes organizations won't do that because that means you've got more losses than wins. And when you go on paper, it looks like, you're not doing as good because this person didn't do so well, and this-- but instead, they're trying to invest in people that we as a community want to see succeed, which is everybody, but especially when somebody's struggling. And so, I-- would-- does that answer your question?

**HALLSTROM:** Yes. And in getting involved in those programs and with those organizations, is that on your own, is it part of the system that helps you get coordinated and, and combined with them, or is it the organizations finding you and reaching out?

**JASON WITMER:** Well, it's both. So the organizations definitely reach out. They, they are proactive-- be-- which we should be with every rehabilitation thing, is proactive. We should never just wait for somebody to step all the way up because sometimes, you don't know what's going on and they just won't take the step. And they need to know it's a safe place to be. But also as an individual, especially doing long time, I've learned that I just have to take the steps. They might not never have come. So I did take a lot of initial steps. But also, once again, it was one thing that was put into me that by the time I was leaving, about 6, 7 years, I was one of them guys, talking to-- you know, who I would have never thought I would be, you know, reaching out to like, oh, this guy with the books. Here, you know, you

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

come to prison to read books. Of course. I want to do better with myself, so I became one of them guys. So by the time I was released, I was actively trying to reach out to other people. And I would like to think that some of my work out here reflects that.

**HALLSTROM:** Thank you.

**JASON WITMER:** Thank you.

**BOSN:** Senator McKinney.

**McKINNEY:** Thank you. Thank you, Chair. Thank you, Jason. Quick couple questions. In your experience while inside, what have you seen as far as like the long, long-term impacts of individuals being in restrictive housing? What is that done to them? And how has that impacted the population when people come back after being in restrictive housing for long periods of time?

**JASON WITMER:** I'm seeing it out here. Because, because now an organization has taken-- ACLU, as I've said, has taken the initiative to say, hey, we will give you a chance, which I think is a big deal. Because a lot of people talk about go to work, go to work, and then other people are like, ooh, I don't know about the opportunity. They have gave me an opportunity. And doing so also has put me a little bit in front of this body, which individuals in prison watch because not only do they want to learn, they want to get out. They want to get back to their life. And so I get reached out a lot, not just by individuals struggling, but spouses, family members. I don't know how I beat the curve, except that I do get really emotional because I, I, I-- people joke about me. So let me pull that back. But I will say one case right now, but I'm not going to go too specific into it. The wife was asking how she gets her husband back, who has been released, but now he won't talk. She believes that he's now-- he's been in long-term so he's using substances, I guess, is the belief. And my-- and that's like a coping mechanism, but it's also a coping mechanism that takes you downhill and downhill. And I don't know how to, how to address that, that would help. But I do know I've seen this repeatedly, and I've seen it in people who in-- influenced me. And I wouldn't have believed I had seen it in them, because they seem so much better than me and would be better off, and then I see them downhill out here. A lot of individuals are homeless, I've seen. I see the jackets if I don't know them, so I'm already recognizing the state clothes. Talking to themselves, which I do. Now it's just-- it's just amusing now. I talk to myself still. But imagine if I'm just standing on a corner talking to myself and have a-- you know, it wouldn't be so amusing.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

Inside, again, I've seen self-harm, as I said, some dramatic examples, and then a less dramatic example is just people isolating. They go from isolated to isolating in their room because now they act like they're scared of everything or everything's gonna be a problem. It's really hard to describe the nature of each individual's impact from it, but it's definitely-- you, you can see it.

**McKINNEY:** Thank you.

**BOSN:** Any other questions from this committee? Jason, thank you for being here.

**JASON WITMER:** Thank you for having me.

**BOSN:** Any other proponents? Proponents? Good afternoon.

**NATURE VILLEGAS:** Good afternoon, everybody. My nerves. OK. My name is Nature Villegas, N-a-t-u-r-e, last name V-i-l-l-e-g-a-s. I'm so overwhelmed with what to say. And I'll be honest, I spent a lot of my time from the age 9 of 33 being incarcerated in solitary confinement. So just being in these spaces and not being able to sit in a corner of this room to see all the exits, and all the bodies behind me right now have me extremely unnerved. That is part of the experience of returning back to our society. I've been out for 10 years, I guess you could say successfully. But I think if everyone could see what goes on inside of us when we return, it might not be considered that. I-- my last experie-- I would say a total of probably 10 years total of solitary, added together. My last experience was after finding out I was pregnant in jail. And I get hyperemesis when I'm pregnant, which basically you will, for lack of better terms, you will throw up and dehydrate to death if you don't have the right medical care. I found out, told the doctors-- or the nurses. When you're incarcerated, you're not considered a human. You're not considered someone that deserves humane treatment, so anything you say can and will not be taken as seriously. But I was trying to be proactive to save us all the trouble and no one believed me. And then I ended up in medical situations, and I was thrown in a medical cell. And then we became overcrowded, so we were double, triple, quadruple bunked. I was pulled out of that, put back on my unit into a medical cell, which is like on-the-unit solitary. No one can interact with you. You never come out of your cell. Due to my condition, I lost 40 pounds in a week. I was left in there for 4 months of my pregnancy, and it got to where my baby stopped moving. And I let them know that my baby wasn't moving and that I couldn't move my body, and I would get further punished because I wouldn't get off the floor, but I couldn't. My daughter now

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

has-- because of the loss of prenatal care issues. I struggle with mental health things, society things, social things. I'm a restorative justice facilitator here, and I believe if we focus more on trauma-informed care and accountability in a manner that doesn't throw people away, we could truly make progress, and us come back and not be about to faint in front of you when we have to tell our story. I know we can do better. And accountability changed my life not only for the trauma that I experienced, but also for the harm I caused my community. And that's where the true, true change comes, not throwing us somewhere dark and-- I can't even say treating us like an animal because we can't do that to them, either. But I just know we can do better in this. And, and people come out better and in turn, do better in our community. And I have youth here impacted, and, and they're counting on us to do that as well. So, I'll stop.

**BOSN:** Are there any questions from the committee? Senator McKinney.

**McKINNEY:** Thank you. I just want to say thank you for coming. Thank you for coming to testify. I'm sorry you went through that, and I wish you well, and just, just thank you for sharing your story.

**NATURE VILLEGAS:** I appreciate it. Thank you.

**BOSN:** Senator DeBoer.

**DeBOER:** Thank you. So your pregnancy, you had a, a daughter, is that right?

**NATURE VILLEGAS:** Yes, ma'am.

**DeBOER:** You had a daughter. At that time, were you still in prison when your daughter was born?

**NATURE VILLEGAS:** So I actually found out about the nursery program while I was in jail. I was in jail when this happened. For sake of time, I didn't tell the whole story, but there was a young guard and I won't say her name, because I don't know. That might get her in trouble. She came back from a vacation and found me on the floor in that solitary confinement. And she had to, like, push to get me to be able to go to the ER room, where they were like, we don't even know how her kidneys are functioning at this point. During that time, I met a woman that came from York Penitentiary. She worked at the-- at the time, Warden John Dahm was there. His proj-- his baby, if you will, was the nursery program. She told me about it. And I said, well, how do I, how do I get into that? And you couldn't be a violent offender. I was. And I take full accountability to the harm I caused my

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

community. And I still own that today. And that's part of why I'm here, to clean up my mess in a variety of ways. But even so, I didn't let that deter me from attempting, so I started writing. Mr. Dahm. Obviously, he didn't write me back. But then I eventually was in front of him and just said, hey, I'm at a crossroads in my life and I'm going to change my life. And I have no idea what that means, but I want it to be a 180, and, and I want this chance, that if, if you give me this chance, I will-- I'll make it count. And for some amazing reason, that man gave me a chance. And I'm here today because someone chose to not put me in solitary confinement and invest in me and believe in me, and it was the first time in 30 years that I had ever had someone just say, I believe in you, since taken from my mother. And I just wanted to prove to him that man, I knew in that moment it wasn't even about me. But I didn't even know what my future held. I knew, like, this is beyond me because I'm not the only one. So I have to step up to this plate, even if my voice trembles and I'm crying on camera, right? So by the time I got to prison, that's-- once I delivered baby, you know, then you start realizing how much medical-- I mean, had children. There was a lot of damage done, even now, to my body that I have health issues from, and because of lack of prenatal care while I was in jail. By the time I got there, I was delivering shortly right after I got out of D&E. And honestly, if, if the warden hadn't given me that chance, I don't know what that would have looked like either. With my daughter, we obviously didn't find out until later. As babies grow, you don't always know right away what harms are done to lack of prenatal care. Lack of prenatal care is very serious. And it-- it's very up there with even you know, when you see children that-- with mothers that have used or had alcohol. I didn't do that. But because of lack of care, she now has a lot of health things that we have to face due to that. So I hope I answered your question.

**DeBOER:** You did. Thank you.

**NATURE VILLEGAS:** OK.

**BOSN:** Any other questions? Thank you for being here.

**NATURE VILLEGAS:** Thank you.

**BOSN:** I appreciate your testimony.

**NATURE VILLEGAS:** Thank you.

**BOSN:** Next proponent. Are there any opponents? Oh, are you proponent?

**ROBBIE McEWEN:** Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

**BOSN:** I apologize. I got too excited. Thank you for being here.

**ROBBIE MCEWEN:** Thank you. Chairperson Bosn and members of the Judiciary Committee, my name is Robbie McEwen, R-o-b-b-i-e M-c-E-w-e-n. I'm the legal director at Nebraska Appleseed, which is a nonprofit organization that fights for opportunity and justice for all. Between 2017 and 2020, I was one of the attorneys who worked on the litigation Sabata v. NDCS, which is a class action lawsuit filed against NDCS alleging systemic Eighth Amendment deficiencies, including the inappropriate use of solitary confinement. Based on our experience litigating this case, we enthusiastically support the passage of LB99. We support it because we believe it will help alleviate the damaging practices that we directly witnessed during the course of our litigation. Throughout the pendency of this case, we interacted with our named clients, reviewed hundreds of thousands of pages of medical and institutional files of putative class members, and worked with nationally renowned expert witnesses. Our witnesses toured the facilities with us, reviewed NDCS policies, interviewed hundreds of incarcerated persons including our named plaintiffs, and came to various conclusions regarding NDCS's use of solitary confinement. At the time we filed our case, the use of solitary confinement peaked at about 120 persons on a daily average in 2018. Our offices emailed the full expert reports of Dr. Craig Haney and Dr. Pablo Stewart to Chairperson Bosn for the committee's consideration. But in summary, Dr. Haney opined in our case that there was robust scientific literature that establishes the adverse effects of solitary or isolated confinement and severe risk of harm to all prisoners who are subject to it. And those with mental illnesses are particularly vulnerable to the negative effects of solitary. Regardless of whether it's called solitary or some other form of segregation, the deleterious effects of the practice are the same, and were especially present within all NDCS facilities. NDCS policies regarding solitary at the time placed all incarcerated persons at significant risk of harm and those diagnosed with SMI, or serious mental illness, at substantial risk of harm or extreme risk of harm and irreversible at that, including the loss of psychological stability, impaired mental functioning, self-mutilation, and death. Dr. Stewart opined that, again, Nebraska's use of solitary was consistent with what he had seen in other states and individuals with serious mental illnesses placed in restrictive housing suffered exacerbated symptoms. Personally, I've interacted with a substantial number of persons who have experienced this, and I can say without hesitation that directly observing the effects of solitary confinement on these individuals was the most traumatic experience of my legal career. And it will for-- and it will

forever be seared into my memory. However, my own observations and experiences cannot even begin to compare to the immeasurable suffering endured by my former clients and their peers. For these reasons and many others, we support the clearer definition of solitary confinement, the cap on the number of days, especially the prohibition of placing somebody in solitary confinement when they're not manifesting symptoms of an SMI and they just have a diagnosis, it is still serious harm-- and the present-- or the policy of double bunking, which our clients repeatedly experienced during the Sabata litigation. So I'd be happy to answer any questions that the committee has.

**BOSN:** Any questions from the committee? Thank you for your testimony.

**ROBBIE McEWEN:** Thank you.

**BOSN:** Are there any other proponents? Good afternoon. Thank you for being here.

**JASMINE HARRIS:** Good afternoon, Senator Bosn-- Chair Bosn-- I get to say that this year-- and members of the Judiciary Committee, my name is Jasmine Harris, J-a-s-m-i-n-e H-a-r-r-i-s. I am the director of public policy and advocacy at RISE, and I request that this testimony be included as part of the public hearing record that shows we are in support of LB99. For those that don't know, RISE is the largest nonprofit organization in Nebraska that is focused solely on rehabilitative programming in prisons and reentry support. Our inside/out model bridges incarceration to the community and considers all the critical steps in that journey. We prepare and train people for each phase through intensive character development, employment readiness, job creation through entrepreneurship, family programming, and case management. Our mission is to break generational cycles of incarceration. I want to thank Senator Spivey for introducing this bill and continuing the work necessary to ensure that people who are incarcerated are treated humanely by improving the conditions of their living environments while incarcerated. With RISE's model of working with individuals from the time they are incarcerated through their reentry and beyond, I would like to discuss the impact that being subjected to restrictive housing and solitary confinement have on people upon their release. 90% of people who are incarcerated will come home to our communities. Solitary confinement and restrictive housing aren't punishments used just for individuals who are long term or life sentences. So the outcomes of these measures being used impact people that will return to communities across our state. Incarceration is traumatic and it can be exacerbated-- and it can exacerbate mental

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

health conditions. Individuals who may not have a mental health condition going into incarceration can return home with a serious mental health condition caused by incarceration. An individual experiencing incarceration compounded with being subjected to solitary confinement and restrictive housing will have a profound impact on their mental health. The long-term impacts of confinement are not just on mental health, but their physical health as well. I mention all of this because our reentry team works with people returning home from incarceration who have been impacted by these practices, and we deal with the mental health and physical health needs of our participants. We do that through the reentry journey. We have to determine how we can get them connected to services and resources within the community to address the issues. We work with those individuals who are living with serious mental health conditions. And when we work to get them connected to things like mental health service providers in our community, there can be a 30-plus day wait. We have to be proactive in our approach to how we use punitive measures within the system that have deleterious effects on people's health. Minimizing the use of these methods is a start. I also believe that if individuals are still going to be subjected to these methods, they should be prioritized for mental health and wellness checks with the Department of Corrections' mental health providers as soon as they're released from those conditions and regularly monitored throughout the rest of their incarceration up until their release. For these reasons, RISE supports LB99, and asks that committee members vote this bill out of committee and on to General File. Thank you.

**BOSN:** Thank you, Ms. Harris. Are there any questions for this testifier? Thank you for being here--

**JASMINE HARRIS:** Thank you.

**BOSN:** --and the work you do. Thanks. Next proponent. Opponents? We'll move on to opponents. Are there any opponents of LB99? Good afternoon.

**ROB JEFFREYS:** Hi, everyone. She's handing out my written testimony. I'll tell you, I'm going to paraphrase a lot because that yellow light comes a little quick.

**BOSN:** You can start.

**ROB JEFFREYS:** All right. Good afternoon. Chairperson Bosn and members of the Judiciary, Judiciary Committee. My name is Rob Jeffreys, R-o-b J-e-f-f-r-e-y-s, and I am the director of the department-- the nas-- Nebraska Department of Corrections Services. And I'm here today to

provide testimony in strong opposition of LB99. Quite frankly, LB99 is unnecessary and it could, it could potentially be dangerous, a dangerous bill that creates unreasonable parameters considering the department's existing facilities, staffing capabilities, and acts of violence that commit-- that are committed by some members of the population unfortunately. The average number of persons in restrictive housing is approximately 3% of our total population. This is a small number that will make up the, the community within the Department of Corrections that makes it unsafe. In order to operate safe prisons, we must have a mechanism to safely separate those who create significant risk of harm, just like in communities in which you and I live. When a crime is committed by a person, we have to remove that person from the community. When someone is assigned to restrictive housing, you know, it is done with a multidisciplinary team approach, various levels of review, insight, and offer a multifaceted approach as well, too. The team for this review process is the operations deputy-- deputy director of operations, classification, behavioral health practitioners, our intelligence team, team that also includes a security threat group representative. All these are necessary because we want to look at each assignment, unique circumstance, and risk factors. So we have significantly reduced the number of restrictive housing. Today, I mean, as of January 22, it's about 155 people that we are, that we are testifying about today. That is down 20% of what it was from an average population of 193 in 2024. And we have seen an overall reduction in the violence indicators, which leads people to go to restrictive housing, across our agency. But the recommendations in this bill propose changes that would place some of the staff and some of our population in significant danger. And I'll get into that a little bit further, particularly the 15-day-- the 15 consecutive days. Think about 15 days, just for an act of violence, you place someone in restrictive housing. You send the wrong message to the population that if they commit an act of violence in the facilities, there's no serious consequences. There are about of that 100 and-- what did I mention-- 155, there are currently 95 people in restrictive housing, housing for serious acts of violence, and 42 individuals of threats of serious act of violence. So we are locking up the dangerous people that impact the harm and safety of our security. And this is numbers just of, just of yesterday. The 15-day limitation would not-- is not enough time to completely-- complete any risk-reducing programming in restrictive housing. And I'll talk a little bit about that. We're requiring a program and case plan for everybody who's placed in restrictive housing. The proposed change would require out-of-cell time for at least 10 hours a day. It's just not-- it's not possible. I mean, the physical layout of, of our higher facilities is not set up

for that level of out-of-cell time, even for general population. And there's the red light.

**BOSN:** Let's see if there's any questions from the committee. Senator DeBoer.

**DeBOER:** Thanks. So Director Jeffreys, we have-- thank you so much for being here. We have a number of new members of the committee, so I was going to talk about some basic things and, and then see if we could get there. Restrictive housing is-- we use the term restrictive housing or long-term restrictive housing instead of solitary confinement typically. Is that, is that right?

**ROB JEFFREYS:** Yeah. And I'm glad you asked me that question because I had someone send me the language as it was written in statute. Right. And I will explain the differences between restrictive housing and solitary confinement. Restrictive housing is a condition of confinement as defined by, you know, Nebraska Statute 83-170. It means conditions of confinement that provide limited contact with other offenders, strictly controlled movement while out of the cell, and out-of-cell time that's less than 24 hours per week. Solitary confinement means the status of confinement of, of an individual in a cell that is solid door, soundproof door-- solid, soundproof door which deprives the inmate of any visual and aud-- "auditorial" contact with other persons. We do not have solitary confinement in the state of Nebraska.

**DeBOER:** So we have what we call restrictive housing.

**ROB JEFFREYS:** We have restrictive housing.

**DeBOER:** And my understanding is that restrictive housing cannot be used as a punishment. Is that right?

**ROB JEFFREYS:** Here in Nebraska, it is used as immediate security concerns. So they put them in and they do a risk assessment and everything. They identify what the threat is, do the assessments and what have you, and the average length of stay for somebody who goes through that process is about 12, 13 days. Right?

**DeBOER:** But we know-- there are some folks who are longer.

**ROB JEFFREYS:** But then there are those folks who do the serious offenses, what have you, and, and I got a long list of those, as well, too, that, that-- 95, who find themselves that continues bad behavior, assaultive fighting, bringing in drugs, you know, repeat offenders and

what have you, and some cases murder, as well, too. So those folks, we do not believe they should be in our general population, not to mention those-- the threat of violence from those particular individuals with all the information and disciplinary process and what have you, it also increases the protective management. That's a whole nother-- special.

**DeBOER:** I was going to ask about that. So, so another group of folks who might be in the restrictive housing are those who've requested or are in protective custody within restrictive housing. Is that right?

**ROB JEFFREYS:** Yes. But those folks are placed in special management, which is a different definition that re-- that has a whole different component to it. So we do not put folks long-term in protect-- that are stasured as protective management or protective custody in restrictive housing.

**DeBOER:** And what's the usual, like, time frame that someone would be in protective custody or protective management?

**ROB JEFFREYS:** Protective management is, is generally operated like a, a GP unit, but has-- that separated from everybody else.

**DeBOER:** OK.

**ROB JEFFREYS:** And so, here's, here's, here's the violence indicators is what I mentioned earlier. If we take away the threat, those person-- those persons who are creating those violent, you know, indicators for our institute, that brings that protective management population down. And we have seen significant reduction based on our efforts to be able to put the right person who's causing the threat and the violence in the right place.

**DeBOER:** OK. So just for clarity for everyone, especially those who are new here, restrictive housing isn't really a place. I mean, you have a place where you put the restrictive housing folks, but restrictive housing, at least legally, is the amount of out of-- out of jail-- out-of-cell time. Right. The, the definition of restrictive housing isn't that you're in this place. It's that you're not getting out of your cell more than this amount per-- so that you could be in any like, place. The place isn't the important part. The, the dispositive part is the amount of out-of-cell time. Is that right?

**ROB JEFFREYS:** Let me go a step further.

**DeBOER:** Yeah.

**ROB JEFFREYS:** Restrictive housing is more of a program. Like, when you go to restrictive housing, it, it means you're-- you have been adjudicated [INAUDIBLE] well, just go-- just speak of the long-term restrictive housing, right, because I think that's the crux of this conversation. Those folks who have gone-- who've been adjudicated and their acts of violence have, you know, warrant them to be placed in long-term restrictive housing, because they're assaultive, they killed somebody, murdered somebody, caused a riot or what have you, and pretty much repeat offenders. Those folks, they are placed in, in restrictive housing and they are required to complete a program based on their assessment. We do assessment on everybody who comes through there. We do a mental health, medical, and a program assessment for everybody to address the risk factors of why their behavior has made them go into it. Based on that particular program assessment, and we put out a plan of how long you should be completing your program. Because we no longer just want your time in crime-- I mean your time, we want you to address your behavior, what got you there in the first place. So that's, that's restrictive housing that it is as in Nebraska. And that's, that's a very good model.

**DeBOER:** And I assume that you also understand that the definition in our law of restricting-- restrictive housing is based on the amount of out of jail-- out-of-cell time.

**ROB JEFFREYS:** Yeah, 22 hours.

**DeBOER:** OK. So if someone was-- if an entire cellblock was in less-- out of their cell for less than 4 hours per day, basically, or 24 hours per week, they could theoretically be called restrictive housing, even though they're in what would normally be a GP, a general population.

**ROB JEFFREYS:** I mean--

**DeBOER:** Because it's the, it's the time out of-- I'm trying to indicate that it's the time out of cell that is the, the important factor.

**ROB JEFFREYS:** Yeah, but there's also, there's also adjudication processes. There's a due process that goes for somebody to be classified as restrictive housing.

**DeBOER:** OK.

**ROB JEFFREYS:** Just your housing unit and-- is being locked down for a period of time and you have not been adjudicated, does not place you in restrictive housing.

**DeBOER:** OK. So I was looking at your fiscal note for this bill, and I-- this is one of the problems with having 20 bills-- sorry-- but having a 20-bill limit. It's because we've kind of got a, a number of things in here that when we get a fiscal note then, the fiscal note deals with a bunch of different factors. So I was wondering if you could give us an indication and obviously I know I'm putting you on the spot, so maybe, you know, you don't have any sense of this, but maybe you could follow up later with that. If we just did the double bunking portion of the bill rather than the other portions that deal with restrictive housing, do you know, would that-- how that would kind of cut the pieces of the pie of your fiscal note if we just did the double bunking portion of the bill?

**ROB JEFFREYS:** Well, I don't-- well, the double bunking has some concerns in it as well, too. I mean, I don't think I should be asking somebody, should you take a-- would you mind if somebody comes and lives with you in that cell? I think that's pretty subjective based on somebody's, you know, you know, they can say yes and be, you know, nefarious in their actions as well, too. So I, I don't like that part, for one. The second part is it's, it's driven by capacity, right? So we look at a facility-- I know, in particular, we're talking about RTC, which is about, you know-- no, not RTC. We're talking about NSP. That's, that's what this is all about. But the bed capacity, it's built for 818 people. Right. And so, the restrictive housing designated bed space is only about 20 beds. So if 25 people get into a fight on the yard, that's what drives the double capacity. And we need to have that option to be able-- driv-- driven by, you know, what the demand is. We needed to have, to have that flexibility. If I got only 20 cells and I got 30 people, somebody is going to have to double bunk.

**DeBOER:** So if you were trying to accommodate 25 and this bill would pass and so you couldn't do the double bunking, what would be your-- I mean, how would you, how would you do that? How would you go about accommodating that if this bill were passed so you couldn't double bunk? You've got 25, but you've only got room for 20. You need to have 5 more places, as it were. How would you go about accommodating that?

**ROB JEFFREYS:** Well, that's a hypothetical that puts me on the spot to, to address a bill that I'm not supporting of.

**DeBOER:** I'm just trying to figure out, like, what portion of this comes from that part-- the fiscal note comes from that part, and what portion of the fiscal note comes from the staff and others that you would need to do in order to accommodate the larger out-of-cell time that is part of this bill.

**ROB JEFFREYS:** Well, the out-of-cell time is the majority of the bill. I, I-- we can agree on that. Because of the staffing and the design capacity, they're just not-- you know, prison wasn't built for space. We're talking about a 130-year-old prison right now, so it wasn't built for space. So the majority of the bill, the fiscal note is, is to that, but the operational side of it is we've got to have flexibility when flexibility is needed. But I want to also mention, and this is what I spoke to earlier, about the violence indicators. A lot of times we look at, you know, we can't have the tail wag the dog. Right. So restrictive housing is a last point placement when we cannot control the facility. So we look at the violence indicators of the facility and try to address those, the root causes of why people are going to restrictive housing: Drugs, alcohol, fights, gangs, you name it, assaultive predators and what have you. So we have taken-- the team has taken a very concerted effort to address those root causes, to reduce the contraband, to reduce, reduce the, the amount of drugs coming through the mail and all that stuff. And it has had significant impact to it. Like I just said, we just dropped restrictive housing by 20%, 20%. And, you know, things are continuing to go in the right direction because we are-- we're being very intentional about what we're we're trying to fulfill that mission about-- getting people prepared to go out and be successful citizens. So we want to concentrate on that 97% of people who want to do the right thing, who want to get the programming, who want to make sure they're getting through their reentry, and be-- reengage with their family members and back out to community to get jobs. That's the 97% that we want to concentrate on.

**DeBOER:** Yeah. And I want to commend you, also. Before you were in Nebraska, I was on a group called the Long Term Restrictive Housing Work Task Force that disbanded before you came here or right around the time you came here. And one of the things that we looked at was the way in which restrictive housing was coming down in Nebraska. And I think you've continued the-- bringing the usage down, and we hope to continue to do that more and more. So I do want to thank you for continuing on that trend line to bring down the use of restrictive housing. There's only one more thing, and I know that my colleagues are probably getting annoyed, but there's one more area I want to talk to you about, because it's the serious mental illness portion of this

bill. First of all, just to clarify, the, the woman who testified here earlier must have been incarcerated before the passage of the bill, I think it was LB686, in 2019, which-- maybe it was 2020, something like that-- which prohibited the use of restrictive housing for vulnerable populations such as pregnant women. So hopefully, there's no other women who would have that story after the passage of that bill. And I think that you all have done a good job of putting that into effect with respect to pregnant women, so thank you for that, as well. But with respect to serious mental illness, and I think that's the portion of the bill that's responding to the, the way in which LB686 was rolled out, before your time here and then now, which is that the, the department has understood serious mental illness to only be those folks with a serious mental illness that is unmedicated, and this bill imagines those with a serious mental illness even if they are under the influence of medication to help with that serious mental illness. So as I look through the fiscal note-- and I'm trying to understand the portions of the bill that are sort of going for each thing. There's the, you know, 10 hours out-of-cell time, there's the double bunking. And then I think that sort of third slot would be serious mental illness. How many folks, if you have a sense, are in long-term restrictive housing that are diagnosed with a serious mental illness at this time but may be under the use of medication? And that may be a question that's unfair. If you, if you want to get back to me, that would be fine.

**ROB JEFFREYS:** Oh, no, no. I have it right here.

**DeBOER:** Oh, perfect. Thank you.

**ROB JEFFREYS:** It just took me a while to get to it. But, you know, let me speak to Section 2 of that bill and just talk about, you know-- we have mental health staff assigned in each restrictive housing unit at each facility. Right, and there's a review within-- I don't want to bastardize it. I got the policy right now, I could read it word from word about the reviews and the multidisciplinary approach, when have you, in an assessment. Everybody is assessed going into restrictive housing to, to get their capacity as far as the mental health level of care. And there's five levels of care and I could go into those individually. But to your, to your question, many states have different opinions, different definitions of what is considered to be mental health for restrictive housing purposes. So we look at substantially the conditions that impairs someone's life activities and decision-making. That's part of our policy. Someone who has mental health deterioration in any of our facilities, whether it be in general population or restrictive housing, is moved to an environment

where they can receive the additional treatment and resources that need it. So I just want to state that for the record. We are very conscious of who is placed in restrictive housing and their mental health capacity. But back to your question, 44 people are in restrictive housing as of 1/25 that has a designation of SMI.

**DeBOER:** OK.

**ROB JEFFREYS:** And that's across the agency.

**DeBOER:** OK. Thank you. All right. I think I'm done. Sorry. Thank you.

**BOSN:** Senator Storer.

**STORER:** I'll make this, I'll make this brief. I'm just giving you a hard time, Senator DeBoer. A couple of things, just for my clarification. So if I understood you correctly, under the current definition of solitary confinement, Nebraska doesn't have a facility that would even qualify for-- under that definition?

**ROB JEFFREYS:** No.

**STORER:** OK. Second question, and this is just really kind of to the point, is under this bill, if this bill were to be passed in its current form, would it be more or less safe for both inmates and staff in our current facilities?

**ROB JEFFREYS:** Less safe.

**STORER:** Thank you.

**BOSN:** Senator McKinney, followed by Senator Rountree.

**McKINNEY:** Thank you. Thank you for your testimony. When you opened up your, your testimony. You said this bill is unreasonable. And I'm just trying to grapple with the unreasonableness of trying to make sure that people who are placed in these situations don't lose their minds, their safety is thought about, and just a lot of things. So I have some questions. First, I want to ask, currently, the way your department is operating, could someone be released directly to the streets from restricted housing?

**ROB JEFFREYS:** As is written in policy, we, we do all efforts to not release somebody from restrictive housing to the street. And we start that process 120 days out-- I mean, from their time that we know somebody is going to be released. Now, we want to get that person in a

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

less restrictive environment. We want to start engaging them in reentry planning and what have you. Now, let's be honest. Everybody doesn't want to comply because some people are in restrictive housing because of--

**McKINNEY:** So it's possible?

**ROB JEFFREYS:** It's poss-- absolutely. I mean--

**McKINNEY:** And I bring that up because everybody always likes to talk about things here. And I just remind everybody, Nikko Jenkins was released directly from a situation like this to the streets, and we all know that outcome. Secondly, this bill was introduced January 10. I think today is January 24. Did your department reach out to Senator Spivey to give any suggestions, ask her about why she introduced the bill, any type of thing?

**ROB JEFFREYS:** Yes, we reached out to her. We got a meeting next Tuesday.

**McKINNEY:** Did you talk about the bill?

**ROB JEFFREYS:** The bill was-- no, I did not talk about the bill.

**McKINNEY:** Why?

**ROB JEFFREYS:** It's a bill that keeps repeating itself.

**McKINNEY:** But--

**ROB JEFFREYS:** It keeps repeating itself every year, so, I mean, somebody is going to pick it up each year, right? It's the same exact bill that was introduced last year and the year before.

**McKINNEY:** But if you have suggestions-- you're, you're here testifying against it.

**ROB JEFFREYS:** Yes. I mean, there's-- I'm not making suggestions to make it better. I'm opposing it to say we don't need it, and I said unnecessary.

**McKINNEY:** You said unreasonable.

**ROB JEFFREYS:** [INAUDIBLE]. I said unnecessary.

**McKINNEY:** LB99 creates unreasonable parameters. All right. So, to move on, to look at the fiscal note, why is LB99's fiscal note 15% higher

than the last version of this bill, despite the fact that combined population of restrictive housing and protective management have dropped from 643 in August of 2023 to 381 in September of 2024, a nearly 40% decrease. Was this simply a recycled from last-- was it simply recycled from, from last year? For example, in LB557's fiscal note, it mentioned, it mentioned 100-- \$108,000 for new lighting, but now it's \$116,000. In other words, why are you asking the taxpayers to foot 10K more? I-- what's the difference? What changed?

**ROB JEFFREYS:** Let me repeat. I'm not asking them to foot this bill. I'm in opposition, and if the bill passes, this is what it's going to cost. Right? So that's how I see it.

**McKINNEY:** OK. So now, in the mention of double, double bunking, which is a huge issue, and it's not just in restrictive housing. Because I've-- my office have re-- received concerns from people in NSP, people in minimum custody, which-- and, and yeah, minimum custody in NSP, who are out back, which is considered-- it's-- at least-- it's-- the term is out back. And people who may be on medication are getting misconduct reports. And when they get those reports, they are sending those individuals up front and they're bunking them with people who have serious offenses or lifers, and they're double bunking them. Why do you think this is OK, especially when there's been situations where people have been killed?

**ROB JEFFREYS:** I, I don't understand your question totally.

**McKINNEY:** Why are you double bunking people in restrictive housing when there's clear examples of people dying?

**ROB JEFFREYS:** So, you used a example of general population double bunk.

**McKINNEY:** No, I, I, I used that because you're, you're putting people who are considered minimum custody with people who are considered maximum custody together.

**ROB JEFFREYS:** In restrictive housing?

**McKINNEY:** Yeah.

**ROB JEFFREYS:** Because the act of violence.

**McKINNEY:** No, it's not an act of violence because the people who are sent with the people with the maximum custody, there are only reason for going with the people with, with maximum-- that are considered

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

maximum custody is because they got a misconduct report because they had to pee-- at, at NSP.

**ROB JEFFREYS:** I, I guess--

**McKINNEY:** I've heard multiple examples, and I could get my staff to pull them up.

**ROB JEFFREYS:** Well--

**McKINNEY:** Multiple people have reached out--

**ROB JEFFREYS:** I'd rather--

**McKINNEY:** --because of this.

**ROB JEFFREYS:** I'd rather answer that with the information in front of me, because I, I don't-- I can't explain that.

**McKINNEY:** It's a fact. And I-- and I've sent this information to your staff. I, I-- I've complained about this.

**ROB JEFFREYS:** Well, hopefully they responded. And that way, it--

**McKINNEY:** It was in--

**ROB JEFFREYS:** --it has been resolved.

**McKINNEY:** I thought it was inadequate, but neither here or there. I guess my thing is we keep talking about safety, and safety this, safety this, safety that. But we have to think of safety, safety in a holistic manner. If we're housing people in restrictive housing for un-- unlimited period of time, and we always talk about like, like when people come out, we've got to think about the safety of society. We've got to think about the people coming home. OK, if somebody sits in restrictive housing for, for 60 days and loses their mind, and they come and become your neighbor, how are you going to feel? We have to think about that, because that is what is happening and that's what's going to happen. And we have to do better. Your department has to do better. We have to find a way, and just saying LB99 creates unreasonable parameters to me is unacceptable. Thank you.

**BOSN:** Any other questions for this-- Senator Holdcroft.

**HOLDCROFT:** Short one. Your, your statement alludes to similar bills being passed in other states. And what, what has been your experience with similar bills?

**ROB JEFFREYS:** Absolutely. And so, the [INAUDIBLE]-- and so, we're not beyond reproach. I mean, that's one of the things about life is you can change every day. Right? But you got to use the data to be able to help make it an informed better decision. And so we learn from other states who have been legislated into putting a limited guideline-- I mean, determinant sentences on folks that it doesn't take into account repeat offenders. Right. So in a, in a, in a sense, if somebody gets, you know-- you only get 10 days, and then you get out and you repeat the behavior-- and I talked about protective management earlier. What does that do for the victimization of those folks? That increases that population, that special management population. So essentially, we fix one thing by letting people out, but we increase our population management, and so that-- it doesn't go well. And so there's been states who have seen some increase in protective management placement. They've seen some increase on staff morale. And if somebody gets assaulted and what have you, and then the person's out in 10 or 15 days based on that state, there's been a significant increase in tho-- in those particular assaults, because the population or the perpetrator does not understand the consequences, and he needs to, or she needs to understand that as a result of your bad behavior, these are the consequences. And oh, by the way, we want to address that behavior, because we do provide programming inside restrictive housing. We also increased tablets in restrictive housing as we move towards our 5 key model, which is a whole new model to look at the benefits of why, why people need to improve their behavior. We've also instituted that in our long-term restrictive housing and our special management, as well, too. So we are doing things to help change behavior. It's just a matter of sometimes, that horse has to drink.

**HOLDCROFT:** Thank you.

**BOSN:** Senator Hallstrom.

**HALLSTROM:** Mr. Jeffreys, does your data support any sweet spot between unlimited and 15 days? And then, if you wanted to respond any further to Senator McKinney's question, feel free to do so, from, from my perspective.

**ROB JEFFREYS:** Does the data support either way? So as I mentioned, 20, 20% reduction, that's awesome work. But it's-- and we've done it in a safe manner because we changed-- we're changing the culture of the agency to make sure that the population understands-- with peer facilitators, because it's just not us has a responsibility. It's also the population to understand that they need to have a homogeneous culture, as well, too. So with the peer facilitators delivering

programming, with more population management, as far as we rightsizing our, our, our custody levels and everything-- we're putting the bad apples with the bad apples. We're putting the good people with the good people. So, you know, we want to put true custody at every facility level so people can live without the fear of somebody threatening them, or, you know, want to take their stuff or, you know, there's a lot of things that I could say about that. But nevertheless, we've seen a reduction, particularly at NSP. I mean, we, we put some population management tactics over there, and it's gotta-- you know, I've got data that supports less contraband, less drugs, less fights, less assaults on staff and everything. Everybody wants to feel safe-- and the population, less inmate-on-inmate assault, as well, too. So it's, it's, it's understanding the data, it's understanding that the population has to understand that you play a role in this as well, too. There's incentives in, in tying into your restrictive housing. There's incentives in-tied, incentives in-tied into the population management strategies. Like, this, this is no different than any community that we're, we're in, right. And in any community that we're in, when there's a bad perpetrator in that community, what do we do? We remove them from that community.

**HALLSTROM:** Thank you.

**BOSN:** Senator McKinney.

**McKINNEY:** Thank you. Just-- quick question. What is the 384 at RTC considered?

**ROB JEFFREYS:** Special management.

**McKINNEY:** And what is your definition of special management?

**ROB JEFFREYS:** Special management gets out of cell 3.5 hours a day. It's the same thing as anything dealing with the mental health population. Special management, programming out-of-cell, out-of-cell activity, programming, tablets, case plan, everything. And we've released-- and I know I've got those numbers. I think we release from the 384, and we also put special management in-- at Tecumseh, as well, too. So.

**McKINNEY:** Just for clarification, they're in their cell 20.5 hours a day? Or am I wrong? Or 1 point-- 21.5?

**ROB JEFFREYS:** There's only 24 hours in a day.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

**McKINNEY:** Yeah, I know. I'm just trying to get the calculation right in my head. But--

**ROB JEFFREYS:** You want to get a calculator? I mean--

**McKINNEY:** No. I don't need it. But I'm just saying, like, it's easily 19 hours a day they're in their cell.

**ROB JEFFREYS:** Well, yeah. I mean, we-- I mean, think-- I mean, I'm going to be real. In general population, we can't get people out of their cell 10 hours a day with the schedule and everything, and the count, and the feeding and everything. We can not get everybody-- everybody is not able to be out of their cell more than 10 hours a day in the general population.

**McKINNEY:** No, I'm just thinking about if--

**ROB JEFFREYS:** No, I'm doing the comparison.

**McKINNEY:** Is there--

**ROB JEFFREYS:** I mean, when you're, when you're comparing the 3.5, I'm comparing it to what we struggle to do in a, in a regular general population.

**McKINNEY:** I guess what I was going to say is, are you going to conduct a long-term impact on what that, what that has done to the individuals who's-- who are being subjected to that?

**ROB JEFFREYS:** Please explain.

**McKINNEY:** I'm, I'm asking because I've, I've got calls about people being in the 384 as well, and they feel like it's hell. And what I'm saying is, is there going to be a study conducted to see how has that affected those individuals for the long-term? Like mentally, physically are-- once those people get out, if some of them do get out, how has that affected them?

**ROB JEFFREYS:** That's a far-fetched hypothetical.

**McKINNEY:** I think that's-- I don't think that's far-fetched.

**ROB JEFFREYS:** Yeah.

**McKINNEY:** If somebody spends--

**ROB JEFFREYS:** It's, it's a stepdown.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

**McKINNEY:** --19 hours a day in a cell-- could you imagine being stuck in a, in a room for 19 hours? I understand what you're saying as far as counting time, and trying to manage the facility. I get that. But 19 hours, that's a-- just a lot of time. That's all I'm saying. And I'm, I'm just curious about the long-term impacts of that. That's, that's all I'm-- that's all I'm curious about. That's not far-fetched to say it could be-- have negative impacts. That, that is not far-fetched.

**ROB JEFFREYS:** Right. And so, 384 and the special management unit at Tecumseh is an alternative to restrictive housing and it's a stepdown from restrictive housing. So it's not a go-and-stay. It's your transitioning unit.

**McKINNEY:** I know people that have been--

**ROB JEFFREYS:** I'm just looking for the numbers.

**McKINNEY:** --in there forever.

**ROB JEFFREYS:** It just started last year. What's forever?

**McKINNEY:** No. I, I know people who've been in the 384 for more than last year.

**ROB JEFFREYS:** It just opened up.

**McKINNEY:** The 384?

**ROB JEFFREYS:** Yeah.

**McKINNEY:** Was it last year? It's-- it feel like it's been open longer than a year.

**ROB JEFFREYS:** OK.

**McKINNEY:** But OK. Seems longer. Thank you.

**ROB JEFFREYS:** Thank you.

**BOSN:** Any other questions for this testifier? Thank you for being here.

**ROB JEFFREYS:** Awesome. Thank you. I have those numbers. I found them. We have transitioned 47 people out of our 384, our special management units as a result of the stepdown unit, based on their behavior and their completing a programming plan and everything, and they're back

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

out in general population. So there's, there's, there's, there's opportunity here. Yeah. So, thank you.

**BOSN:** Thank you. Next opponent. Good afternoon.

**ROBERT KLOTZ:** Robert Klotz, K-l-o-t-z, from Lincoln, Nebraska. I'm not going to read what I wrote here. Gonna go off the cuff. Help me, God. People are an in society, enjoying all the freedoms they can have, until we can't trust them and we put them in prison. In the prison system, they can enjoy all the freedoms they can have in the prison, until they can't be trusted. You put them in solitary confinement, segregation, whatever it is. The question is, can you teach these people not to be stupid? Some people, as we've seen, yeah, they've learned. Nikko Jenk-- Jenkins was mentioned. He wouldn't learn. He was in solitary his entire stay. He got out of prison from segregation to be let out, and within the first month, he killed 4 people. The question is, did he go crazy in there and that's why it was? I don't think so. He did-- he just didn't like to play in the sandbox with other people, whether in society or in prison. That brings us up to solitary confinement. What about the safety of the people working there? They want to be just as safe as you do out in your neighborhood. If they can't be trusted out in the neighborhood, they're putting in-- they're put into prison. And these people who volunteer or work with dangerous people would like to be safe, too. But if they're out every 15 days running around, who knows when they're going to be stabbed in the back? I've seen people shoved through right here with shanks. I've seen people beaten who are stabbed. No, they need protection, too. Solitary confinement or whatever you want to call it is one way to do it. And sometimes, if they don't want to learn, they stay in there. You make the bed you sleep in. And if they don't want to learn and you go crazy, it sucks to be stupid. End of sermon.

**BOSN:** Thank you. Any questions for this testifier? Thank you for being here. Next opponent. Anyone wishing to testify in the neutral capacity? Good afternoon.

**DOUG KOEBERNICK:** Good afternoon. My name is Doug Koebernick, spelled D-o-u-g K-o-e-b-e-r-n-i-c-k, and I work for the Nebraska Legislature as the Inspector General of Corrections. I'm testifying in a neutral capacity today on LB99. LB99 would make a variety of changes regarding restrictive housing and related practices, as you've heard so far. Included in these changes is that requirement in Section 2 that the limit the-- or end the practice of double bunking in restrictive housing. And I just want to add, too, as of today, I'm not aware of

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

any actual double bunking placements in restrictive housing in the department. And there haven't been a lot historically, since the Terry Berry murder back in 2017. I wanted to share with the committee that this change would be consistent with the finding and accompanying recommendation made in a recent Inspector General report regarding the death of an incarcerated person at the State Penitentiary. Specifically, the report found that continued double bunking in these conditions is dangerous, and that the department should end double bunking in restrictive housing. These are both consistent with past findings of my office. And I've passed out an excerpt that-- from that report that has the findings and the recommendations. And I also will email you a full copy of the report in case you're interested in, in reading it. But that's why I'm here in a neutral capacity. I wanted to share that information with you about the double bunking part of this proposal. And with that, I would be happy to answer any questions you have.

**BOSN:** Thank you. Are there any questions from the committee? Senator McKinney.

**McKINNEY:** Thank you, Chair. Thank you, Doug. On the question of double bunking, we're building a new prison, which is going to be, as projected, overcrowded day one. Has-- have you seen any or heard of any conversations to alleviate this issue in the future?

**DOUG KOEBERNICK:** As far as the new prison--

**McKINNEY:** Yeah.

**DOUG KOEBERNICK:** --and what's going to be part of that? No, I haven't been part of any of those conversations, so I don't have any--

**McKINNEY:** OK.

**DOUG KOEBERNICK:** --information on that.

**McKINNEY:** Also. Have you heard-- I, I mentioned it earlier. Have, have you heard-- has your office heard the issue about people being out back at NSP being shipped up front because of getting misconduct reports and being placed with maximum custody level individuals?

**DOUG KOEBERNICK:** There were some issues that were reported to our office in-- last fall, about some write-ups taking place in the external units like housing se-- 7 and 8. And there were some men that believe they're being moved up front because of some of those write-ups. And I went out to the prison and looked at it, listened to

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

the men, talked to the warden, learned more about it. I think there's always more to the story than sometimes what we're told with those cases. And for the most part, I think, from what I saw, there were reasons to move people other than just what they might have said. I think that's a nice way of putting it.

**McKINNEY:** I guess, last question. Do you think it's unreasonable to consider how we treat people in restrictive housing?

**DOUG KOEBERNICK:** Are you asking how they do that now?

**McKINNEY:** Yeah.

**DOUG KOEBERNICK:** Or how they-- you know, restrictive housing is a very difficult environment for the people who reside there, and also for the staff. It's, it's pretty-- it's stressful. When I first started this job, like 9 1/2 years ago or so, I used to go down to Tecumseh and just sit there, and, and watch the interaction and watch the functioning of those restrictive housing units. I would say this: I think the director mentioned some of the things that they've-- steps they've taken to improve the situation down there, providing tablets for them to do programming, to do other activities. You know, one of the units, they had changed around a little bit to try to get more out-of-the-cell time for some of the individuals who are having various issues. They've taken some steps lately for people who are in for long, have been in for, you know, 1,000, 2,000 days, like Senator Spivey said, to give them a new pathway out. And, and I visited with the men after that. There's one specific unit that had a lot of guys that were in for a long time, and I actually visited with, with them and the warden. We went down there like the day after they found out about this new pathway. And they were all-- seemed very encouraged and excited because they felt like they'd been stuck there for so long. I mean, there's-- so I think there's been some positive, positive change down there. The one thing I would add, too, and I hate to just keep going on and on for you because you have 4 bills behind us-- this one. But a lot of it, it really does deal with like the structure and the setting of the facility and the galleries and everything. Several years ago, when I was ser-- or participating in the long-term restrictive housing workgroup, some members of the Ombudsman's Office and people-- a couple of people in that work group, including Jason Witmer, we went out to Colorado and spent some time out there and looked at their restrictive housing units and their--how they do it. And they had a better physical plant that allowed them to get people out more and do more group activities. Tecumseh wasn't built like that. So you're really-- and you can see that in the fiscal note. If

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

you want to have a different environment where people can do more of that group activity and get out of-- so-- you, you need a different physical structure, and it just doesn't exist down there.

**McKINNEY:** All right. And my actual last question, does your office plan to conduct a study on the long-term impacts of people who have been placed in 384?

**DOUG KOEBERNICK:** No. We don't have any plans to do that. To be honest, I don't have the capacity to, to do that. There's just 2 1/2 of us and--

**McKINNEY:** All right.

**DOUG KOEBERNICK:** --and everything. But I mean, I think the, the Legislature could put together a work group to look at these vulnerable populations in restrictive housing or 384 and get a better understanding of how those, like, serious mental illness, developmental disability, TBI, those things are defined. That would be a way for us to bring people together around the table to get a better understanding of how all this works: the mental health aspect, the restrictive housing aspect, and, and all that. I think that could be a, a positive that could come out of this.

**McKINNEY:** Thank you.

**BOSN:** Thank you for being here.

**DOUG KOEBERNICK:** You're welcome.

**BOSN:** Next neutral testifier. All right. Well, while Senator Spivey is coming up to close, I will note for the record, we had 32 proponent comments submitted, 1 opponent comment submitted, and 1 neutral comment submitted. Thank you, Senator Spivey.

**SPIVEY:** Thank you, Chair Bosn. And I was actually going to lead with that. So I appreciate that. I want to start my close by just thanking Nature, if you're still here, and Jason for being vulnerable and telling their story in front of this whole room, in front of the broadcast, and Nebraska, and really humanizing what we're talking about right now. Like, there's people behind these policies. And the work in front of this committee, the work while we are all here is to build a better life for Nebraskans. And we know that mass incarceration in our criminal justice system is broken. And this is a piece of this larger comprehensive pie that we are trying to address, to ensure that people that we literally own as a state, that we take

care of them, that we're providing space that's rehabilitative, and that we are bringing them back into community in a way where they are not continued to be broken, to get right back into that system again. I do agree with Director Jeffreys, in that we have to address core root issues of violence in solitary and restrictive housing. That's really important. So why people are having this experience definitely starts way before the actual practice of restrictive housing and solitary confinement. Senator Hallstrom, I think you said it best. What are those supports inside of our system? So again, all of these pieces work together and this bill is an attempt explicitly to look at restrictive housing. It provides some definition and clarity around a practice that we as a state absolutely have to be accountable for. We have to spend the dollars. We have to figure it out, because we are responsible for the care, the safety, the dignity, and the rehabilitation of folks that come into our criminal punishment system. I am committed to working with Director Jeffreys. I'm, I'm really glad to hear that it's continuing to trend down, those percentages, for folks that are in restrictive housing, but our work is not done yet. And again, this is what this bill aims to address. We have to be committed as a department and a Legislature to really ensure the practices and policies that we set forth are not causing more harm. And we heard it firsthand. We had people sit in here and tell you the experiences and long-term impacts that they have had being in solitary confinement. And we can't dismiss that. We can't say, Jason and Nature are an anomaly and we're so glad that they made it out OK. Like, we have to do better and we have to demand better. As we work and we think about the-- figuring this out with the Department of Corrections, there's more questions that we have to ask and figure out on this bill. And again, I'm committed to. For example, how does double bunking in solitary keep anyone safe? When we think about, there's no space, so our answer is double bunking. How are those folks safe? How does double bunking nonviolent offenders with violent offenders keep people safe? I'm interested in the meeting that we'll have, and I'll definitely ask and bring back, as I continue to work on this bill, what changes have been done since the 2 murders that we've seen caused by double bunking, which did in turn cost the state \$500,000? So again, we're not saving money with these practices. We're actually spending more taxpayer money because of the murders that resulted from involuntary double bunking. And what adoptions or recommendations have been done from the OIG's Office for this report? So, again, this is not a new issue. I commend Senator McKinney and former Senator Tony Vargas for their work on this. And the conversation isn't done, and that's why I'm picking it up. This is an important piece of addressing our comprehensive state prison system.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

And this is accessible. We can create actual change here and we can figure this out, and continue to chip away at creating safer, more justice-based communities. I would like to close with a quote that Jason said, that the act of isolation is violence in itself. And I leave you with that. Thank you all for your time today.

**BOSN:** Are there any questions from the committee? Senator Storer.

**STORER:** Just very briefly, and I just, I just want to make sure this is clear to everyone and make sure I understand it clearly, that solitary confinement, as it's currently defined in our state statute and has sort of been presented as maybe the, the worst-case scenario here, does not exist in Nebraska.

**SPIVEY:** Yes. So according to Director Jeffreys, the practice and the actual physical conditions, we do not have inside of our facilities. And so what the bill does, if-- and earlier-- I think it's page 1. I left it over there-- or 2. It talks about restrictive housing. And then it sets new definitions within the statute, just to make sure that we're up-to-date and using really, the best practices within Mandela laws that have been adopted across our U.S. and globally. And so the bill functionally just updates some of those. And so, that's why you have the solitary confinement definition, as well as it talks about restrictive housing.

**STORER:** OK. But, but we do not currently have individual cells with solid, soundproof doors, depriving an inmate of all visual and auditory contact? That does not exist in Nebraska?

**SPIVEY:** According to Director Jeffreys, we do not.

**STORER:** Thank you.

**BOSN:** Senator McKinney.

**McKINNEY:** Thank you. Thank you, Senator Spivey. Just one quick question. Do you think your bill creates unreasonable parameters for the department?

**SPIVEY:** I don't think so. I think we have a responsibility to the folks that are incarcerated to create safer living situations, and spaces that provide rehabilitation. And so if there is discourse around the practice of that and how we actually actualize it, again, I'm committed to having those conversations so we can figure it out, but to not lock people in cells for extended period in time that is proven to deteriorate their mental health, that causes them to have

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

more acts of violence, to not be able to reintegrate into population and/or community, I think is-- that is-- to me is unreasonable, not being willing to solve that. And so I think this bill aims to create in practice, functionally, how do we take care of the people that are literally in our custody that we are responsible for? And again, I'm committed to figuring out that from a functional perspective and how that works for the staff within corrections, as well as the people that we need to continue to humanize and, and prioritize their well-being.

**McKINNEY:** Thank you.

**BOSN:** Let's call. OK. Thank you, Senator Spivey.

**SPIVEY:** Thank you, all.

**BOSN:** Yes. As we're calling up LB174 with Senator Prokop, can I see a show of hands how many individuals wish, wish to testify on LB174? OK. That's 10. It's time. We're going to get started. All right. If everybody who's exiting the room can turn it down so we can hear Senator Prokop as he opens. Senator Prokop, welcome to your Judiciary Committee.

**PROKOP:** Thank you, Chair Bosn. And appreciate being here with members of the Judiciary Committee. My name is Jason Prokop. For the record, it's J-a-s-o-n P-r-o-k-o-p, and I represent Legislative District 27, which is west Lincoln and Lancaster County. I'm here today to introduce LB174. This bill protects Nebraskans by limiting how much medical debt buyers and creditors can garnish from paychecks at one time for corresponding medical debts. Medical debt is a pervasive problem in Nebraska and across the country, and LB174 is one step to protect, to protect Nebraskans who are experiencing firsthand the financial hardships of the soaring and often unexpected costs of, of healthcare. So the bill is pretty straightforward in, in, in what it's trying to accomplish. And I'll walk, walk you through it here. And then, you should be receiving a copy of an amendment to tighten up a little bit of the language that we, we found to be a little bit inartful when-- after we originally introduced the bill. So the bill limits how much medical debt buyers and creditors can garnish from Nebraska's paychecks. Current law right now is that if you are a nonhead of household, they can garnish up to 25%. If you are head of household, it's 15%. My bill would drop that 5%. So down to 20% and to 10%, and then also addresses the amount of the federal minimum wage cap and reduces-- I'm sorry-- reduces the federal-- retains the federal minimum wage cap at, at what it currently stands at. As you

saw the-- or have hopefully received the amendment now, it adds, at the end of subsection (3)(a), "if the individual is head of a family or the conditions in subsection (3)(a) [SIC] have not been met." It's meant to intent-- or to reflect the intent of the bill, to make it clear that the lower 10% should be the wage garnishment that should be applied in this case, if it hasn't been proven that, that someone is not a head of household. Even though about 95% of Nebraskans are insured, medical debt does remain a persistent problem. About 11.6% of adults in Nebraska report having medical debt, which is higher than the national average, which is 8.6%. Of that 11.6%, about 2% of that's in collections. Medical debt is unlike other forms of debt. People often have no choice on whether or not they incur that debt as a result of healthcare costs. We can't predict when we will need care or how much that care will be. And often because of how confusing health insurance is, it's hard to understand healthcare pricing and, and an inability to shop around for, for something that may be cheaper. And that might put you into, into more debt. States have taken a wide variety of approaches to try to address medical debt and, and provide relief to residents, include by putting limits on wage garnishments for medical debt. For example, 4 states, including Texas and North Carolina, completely prohibit wage garnishment for medical debts. And in Florida, creditors can only garnish a patient's wages if the patient agrees to it in writing. 11 other states prohibit wage garnishment for certain populations, or if an individual demonstrates a financial hardships. I would just-- I just want to make clear that this is going to be-- that this bill is specific to medical debt and the amount that can be garnished as a result of that debt. So I know that you'll, you'll hear from some others behind me, just on the technical elements of that. But I think just really, to, to close on, on this point, LB174 really is about helping provide relief to Nebraskans who are saddled with, with medical debt and, and making it easier to understand and follow some pathways other states have taken, and really kind of reduce those medical hardships and not make people have to make tough decisions between whether or not they seek care, or a fear of going into that debt and potentially having their, their wages garnished. So with that, I will, I will close, and happy to answer any questions the committee may have.

**BOSN:** Senator Storer.

**STORER:** Thank you, Senator Prokop. I guess the, the question that I primarily would have, I understand our-- you know, we can't plan, often, for medical emergencies. And it, and it can indeed come with a financial burden that we didn't anticipate. That being said, what, what is your recommendation on the, on the flip side for those

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

providing the care? They can't plan for those individuals that, that come needing care and then are in a position to not pay, either.

**PROKOP:** Yeah.

**STORER:** What, what are your recommendations for the cash flow and the actual needs being met of the medical providers, who are being denied payment under your proposal?

**PROKOP:** Yeah. And I, I think under this, is [INAUDIBLE]-- because the, the providers, in this instance, they'll sell that debt. And then, it will be bought by the collectors, or the creditors and collectors in order to try and recoup some of that. With the bill, we're not trying to say that people are, you know, that, that, that debt is, is wiped clear. It's just the rate at which it's collected is slowed down to provide them a little bit more time to pay that off, so that they have additional income so that they can put food on the table, you know, gas in the gas tank, on that. So.

**STORER:** Thank you.

**PROKOP:** Yeah.

**BOSN:** And if I can just follow, sort of, up on that, Is it fair to say that when hospitals don't recover their-- some of the medical debt that patients may accrue, it's passed on to all the other patients that do? And so if we lower the rate at which you can garnish the wages, we're exacerbating the length of time and longer interest rates, rather than shortening the pain for a shorter period of time at a lower interest rate. Is that the-- is that a fair critique?

**PROKOP:** Yeah, I think it's, I think it is a fair critique. You are spreading it out. So it may cause some additional cost to the individual that has the debt per se. But at the same time, it's, it's, I think, at the, at the higher rates, you're inflicting pain in different ways as far as, you know, like I said, some of just those everyday expenses, along those lines. So I think that's, I think that's a accurate representation. But I think just insurance generally, if, if people are not-- they are not seeking care because of fear that they are going to incur medical debt, that's going to increase costs for everybody, too. So I think there's a flip side to that.

**BOSN:** Any other questions? Senator Hallstrom.

**HALLSTROM:** Senator, when I'm looking at this, I would have thought that the language would have matched up with only the percentages being changed, but you've got some new language in the, in the newer part. What's this--

**PROKOP:** Yeah. Yep. The, the amendment piece is just to, I think, clarify some language around when the 10% and kind of what is required in order to be able to garnish at the higher rate. So, I mean, it was a little bit-- it was a little bit confusing the way it was originally written. So in order to do the 10%, you have to be a head of household. And I think it was a bit confusing, because collectors tend to just try and collect at the higher rate. And so, this just provides some clarity around the, the kind of process that they have to go through to prove that they can collect at the higher rate.

**HALLSTROM:** And does that explain-- I think it's counterintuitive that it's 15% for normal garnishment under Section 1(c), and it's now 20% under (3) (c).

**PROKOP:** [INAUDIBLE] you have that right. So it will go down to-- it would go from 25% for--

**HALLSTROM:** Unless you--

**PROKOP:** --nonhousehold down to 20, and from 15 to 10. I don't-- perhaps I'm not appreciating the question correctly.

**HALLSTROM:** OK. OK. Thank you.

**PROKOP:** Yeah.

**BOSN:** Thank you for being here. Will you stay to close?

**PROKOP:** I will.

**BOSN:** All right. First proponent. Good afternoon.

**JUAN HUERTAS:** Good afternoon. Juan, J-u-a-n, Huertas, H-u-e-r-t-a-s. Thank you, Senator Bosn and the committee members. My name is Juan Carlos Huertas. I am a minister at First-Plymouth Church. And about 2 years ago, we began to hear from our neighbors about-- actually 3 years ago now-- about their medical debt needs. And it was a common, common refrain. It was post-pandemic. Many folks had ended up with COVID. And we decided to look into what we could do, and we came up with an initiative that allowed us to retire medical debt for our neighbors. We ended up retiring the debt of about 600 families in

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

Lincoln. But along the way, we learned a lot from our neighbors as we heard from them. About 10% of them replied to us once their debt was forgiven. And we got to hear their stories, and this is why I am speaking for LB174. Because often-- these were folks, many-- most of them were working. About half of them were insured, though many of those insured folks were underinsured. And they are literally trying to balance the, the debt that they incurred that they had little choice to incur, due to their medical condition or whatever happened in their life, with the basics of life. They were already on the edge. They were already struggling with utilities and rent and food. And, and then this comes along, and creates a situation that, that makes their situation even worse. So any, any small amount of, of, of ease of, of their struggle really makes a significant difference in their life, because of the way our healthcare system is. And so imagine-- especially when garnishment issues come, how-- it just be-- makes it so difficult for them to pay their utility-- so then, they end up part of the social service agency again. They end up calling us for utility payments, or they end up calling us for food vouchers or gas vouchers. So, so we believe that this is just one little step that, that doesn't solve the problem, but allows for our neighbors to, to receive some, some ease from their struggles. And it will make, it will make a significant difference overall. Too many of our neighbors have medical debt and have little, little choice to have it. I hope this provides just that little ease, as we continue other conversations about how to solve the problem of medical debt itself. Thank you.

**BOSN:** Thank you. Are there any questions from the committee? Senator Storer.

**STORER:** Not so much a question but a comment. I just want to let you-- I appreciate what you have done. I think it's a great example of what the church has historic-- historically done and the role of the church in coming alongside people and, and caring for them. So thank you.

**JUAN HUERTAS:** Thank you.

**BOSN:** Anyone else? Thank you for being here.

**JUAN HUERTAS:** Thank you.

**BOSN:** Next proponent.

**JINA RAGLAND:** Good afternoon, Chair--

**BOSN:** Good afternoon.

**JINA RAGLAND:** --Chair Bosn and members of the Judiciary Committee. My name is Jina Ragland, J-i-n-a R-a-g-l-a-n-d. I'm here today testifying in support of LB174 on behalf of AARP Nebraska. When you're trying to navigate aging in place, caring for a loved one, or managing an illness or coping with a disability, it can be hard to keep up with all the moving parts associated with your care. Maneuvering this system can be long and confusing and can create a financial hardship for consumers, especially those on fixed incomes. Medical debt negatively affects vulnerable populations and Americans 50-plus who have greater difficulty recovering financially. Medical debt is unlike other forms of debt, and as you've heard, it's not accrued through discretionary spending or poor financial decisions. Instead, it arises from life-altering circumstances: Emergencies, illnesses, injuries, nothing that one can fully prepare for. A single medical event can lead to a financial spiral, partic-- particularly when compounded by wage garnishment practices that leave them unable to meet their basic needs. No one chooses to become sick or injured, and often, individuals with medical debt were financially stable and were contributing members to our economy until an unavoidable health crisis dis-- disrupted their lives. Unsurprisingly, the share of adults with medical debt increases with age, and middle-aged adults are more likely than young adults to have medical debt. According to a Kaiser analysis, 10% of adults age 50 to 64 report having medical debt. AARP estimates that among families that have debt, about 1 in 10 families with the head of household age 50 and older faced a debt burden greater than 40% in 2019. This means these families must devote over 40% of their gross income to debt payments. Current wage garnishment rates for medical debt often leave individuals with insufficient income to cover essentials like housing, utilities, food, and transportation. This not only compromises their ability to survive day-to-day, but also jeopardizes their long-term financial stability. They're no longer able to continue to contribute to their retirement. This pushes many individuals into a cycle of financial instability, increasing the likelihood of defaults, evictions, and reliance on assistance programs. By lowering garnishment percentages, we give people a chance to repay their debts responsibly while maintaining their dignity and financial independence. When individuals are left with more disposable income, obviously they can contribute more to their local economies by spending food-- money on goods and services. Excessive wage garnishment not only harms individuals, but also stifles economic growth in our communities. Lowering the percentage for wage garnishment related to medical debt is not just a compassionate choice, it's a pragmatic one. It protects individuals and families from undue financial hardship, encourages responsible

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

payment-- or repayment, and benefits our society as a whole. Thank you to Senator Prokop for introducing the legislation and thank you for the committee's time today. We would ask for your support to advance the bill. And I'd be happy to answer any questions.

**BOSN:** Any questions? Thank you. Next proponent. Good afternoon.

**ALLISON BENJAMIN:** Good afternoon. Hi, everyone. My name is Allison Benjamin. A-l-l-i-s-o-n B-e-n-j-a-m-i-n, and I am a constituent of District 7. I'm a licensed emergency medical technician and a senior at Creighton University studying pre-medicine and sociology. I'm testifying in favor of LB174 because I conducted my senior thesis research project on medical debt lawsuits in Douglas County. I analyzed 275 cases brought by debt collection agencies contracted with Nebraska Medicine and Methodist Hospital systems. And what I saw convinced me that garnishment rates need to be lower. Nebraska has one of the largest and most aggressive debt collection industries, and we're especially unique for medical debt. We have the highest number of medical debt lawsuits per capita in the country. And while in most states, these lawsuits are filed by hospitals, in Nebraska, almost all the suits are brought by locally-owned collection agencies that pursue debt on behalf of medical providers. On the back of this sheet, so the first sheet, I have a graph that shows the distribution of amounts that were sued for in my study. Each section of the graph, whether it's a line with a dash at the end or a box, represents a quarter of cases. So if we look at Accredited Collection Services-- that's the yellow one-- they were working with Nebraska Medicine and a couple of other providers. They sued for amounts as low as \$194.85. A quarter of cases were under \$460, and half were under \$1,162. Given that it costs \$48 to file a lawsuit, these smaller amounts highlight how aggressive the system is. Attorney costs and interest also significantly inflate what partic--what patients ultimately pay. Creditors might claim that it is difficult to distinguish medical debt from others, but this is not true. I have a handout to demonstrate this. It's the second page of the little packet. So when agencies file medical debt lawsuits, they clearly state on the first page of the complaint-- so the complaint is what I provided-- that the debt is for medical services and identify the provider. And I've shown 2 different complaints from 2 separate cases in different formats to show that this is used in all of the different filing months. So in terms of garnishment, in my study, 4 in 10 cases resulted in wage or bank account garnishment. Currently, federal law caps garnishment at 25% of wages, as you've heard, and a 1969 Nebraska law limits garnishment on heads of households to 15%. This may seem reasonable, but it's not, for 2 reasons. And this is why I firmly support this bill. So the first one

is that the head of household distinction is rarely abided by. Creditors often default to 25% unless defendants separately file for status as head of household. But while the notice mailed to debtors allows them to request a hearing if they're incorrectly identified as not head of family, it doesn't say that doing so would drop the amount garnished by almost half. The second reason is most of the patients I saw in my study that were being sued worked low-wage jobs in trades, transportation, Omaha Public Schools, and retail and grocery stores. And as you've heard, for them, losing 25% or even 15% of income can mean not being able to pay for groceries, pay for gas, or keep the heat on when it's been so cold lately. Lowering garnishment rates would reduce financial hardship for families and make paying back their debts fairer and more manageable. Thank you. And I'm happy to take questions.

**BOSN:** Any questions? Thank you, Allison, for being here.

**ALLISON BENJAMIN:** Thank you.

**BOSN:** Next proponent. If we could maybe have the people who are planning to testify come closer to the front so we can maybe cut down on some of the travel time to the front. Thank you.

**RICKI LIEU:** Hello. My name is Ricky Lieu, R-i-c-k-i L-i-e-u, and I'm a District 7 constituent and fourth-year medical student pursuing a career in psychiatry. I am testifying in favor of LB174. My colleague, Allison Benjamin, discussed her study on medical debt lawsuits. And I conducted the second part of the study, which focused on analyzing hospitals, financial assistance, and collection policies. These policies are critical to understanding medical debt lawsuits. Under the Affordable Care Act, nonprofit hospitals are required to have written financial assistance policies that outline eligibility criteria for free or discounted care, the application process, and the consequences of unpaid bills. In this study, the 5 nonprofit hospitals in Douglas County provide free care to patients earning up to 200% of the federal poverty line and offer sliding scale discounts for those who are earning 201-400%. The Affordable Care Act also prohibits nonprofit hospitals from engaging in extraordinary collection actions such as selling debt, denying care, or filing lawsuits without first making reasonable efforts to determine whether a patient qualifies for financial assistance. If hospitals sell or refer debt, they remain responsible for the actions of the collection agencies they use. Despite these protections, hospitals often fail to comply. Many underpublicize their financial assistance policies, deny legitimate applications, and send bills to collections for patients who likely

qualify for assistance. In our study, while we could not determine patients' exact poverty status due to limited data on dependants, many of the affected patients were clearly low-income and should not have had their bills sent to collections. Additionally, while the Affordable Care Act requires hospitals to oversee extraordinary collection actions, neither federal nor Nebraska laws hold collection agencies accountable. Hospitals often seem unaware of or ignore their contractors' practices. For example, UNMC and Children's Hospital policies claim not to allow wage garnishments, yet we found their collection agencies do use them. When we contacted Children's billing office, they initially stated, we don't do wage garnishments, then later admitted they were unsure of this practice. Hospitals should be held more accountable, and in fact, wage garnishments only account for 0.1 to 0.2% of revenue for hospitals. LB174 is a critical step toward protecting vulnerable Nebraskans from unjust debt collection practices and promoting fairness and accountability in the healthcare system. Thank you.

**BOSN:** Any questions for this testifier? Thank you for being here. Next proponent.

**ANDREW CARLSON:** Good afternoon, everyone. My name is Andrew Carlson, A-n-d-r-e-w C-a-r-l-s-o-n, and I'm a second-year medical student at Creighton University and a constituent of Nebraska District 7. I'm here to testify in support of LB174 because I believe it is a critical step towards protecting Nebraskans from the devastating impact of medical debt. Tanya Glasgow, a 39-year-old mother of 3, works the graveyard shift at a nursing home, earning \$18.50 an hour. She has struggled with health problems, including epilepsy and gallbladder surgery, all while trying to manage \$20,000 in medical debt. Despite her best efforts, she's been sued 5 times. Last fall, after CMS filed a lawsuit over \$1,315 in radiologic and ER bills, her wages were garnished and her bank account was frozen on the same day. Even after the debt was paid, CMS continued garnishing her paycheck, leaving her unable to buy food for her 3 children for 2 weeks. It took over a month to get her money back, during which Tanya described the stress as almost unbearable. Her story is not unique. It highlights the urgent need for LB174, which would limit the portion of wages that can be garnished for medical debt and provide greater protection for Nebraskans struggling to stay afloat. While medical providers deserve fair compensation, our current system places an unfair burden on low-income families, often pushing them towards bankruptcy and deeper financial distress. As future physicians trained in the Jesuit tradition at Creighton University, my classmates and I are taught to embody cura personalis-- care for the whole person. Stories like

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

Tanya's remind us that our mission is not to just treat the illness, but to advocate for justice and ensure that our care does not lead to financial ruin. Passing LB174 honors these values and helps create a future where Nebraskans like Tanya can heal with dignity and hope, free from the crushing weight of medical debt. Thank you for your time and consideration, and I urge you to support LB174. I'm happy to answer any questions.

**BOSN:** Thank you. Any questions for this testifier? Thank you for being here.

**ANDREW CARLSON:** Thank you.

**BOSN:** Next proponent. Good afternoon.

**NICOLE HORIO:** Good afternoon. My name is Nicole Horio, N-i-c-o-l-e H-o-r-i-o, and I am a constituent of District 7. I am a second-year medical student at Creighton University School of Medicine, and I am testifying in support of LB174. I would like to thank Senator Prokop for introducing this important legislation. According to a Kaiser Family Foundation survey, 50% of medical debt is related to unplanned emergency care. When asked what is the most difficult sacrifice you've made to pay down your medical debt, a 67-year-old Nebraska woman with more than \$25,000 in medical debt said cutting out any expenses/services I can. No job, fixed income, and chemo. Even with insurance, no one can afford cancer. This heartbreaking story is just one of many that underscores the burden of medical debt. Currently, Nebraska allows creditors to garnish up to 25% of workers' disposable income, one of the highest rates in the nation. For families already living paycheck to paycheck, wage garnishment can create a vicious cycle of debt from which it is nearly impossible to recover. Many affected individuals and families report being forced to choose between paying for necessities like food and housing or addressing their debt. One such story comes from a Nebraska couple who faced immense medical debt. In 2014, the president of Credit Management Services, or CMS, a collection agency in Grand Island, gifted a used car to the struggling Nebraska family for transportation. The couple's 8-year-old daughter had kidney failure, leading to multiple surgeries and recurrent medical treatments. However, CMS had previously sued the couple 8 times for unpaid medical bills and garnished both, both of their wages. Two weeks before for gifting them the car, CMS seized \$156 from the father's paycheck, equaling 25% of his earnings. Four months later, CMS filed yet another motion, and the family was forced to declare bankruptcy. This tragic case highlights how the current garnishment laws can push struggling families further into financial

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

crisis. As a future physician specializing in neurology, I will care for patients whose financial struggles directly impact their health. Neurological conditions such as strokes and dementia often require long-term care, expensive medications, and rehabilitation services. I have seen how the burden of medical debt forces individuals to delay or forgo necessary care, resulting in worse, worse health outcomes and higher long-term costs. I urge this committee to, to consider the human impact of current garnishment rates. LB174 would help promote a debt recovery process that does not target our most vulnerable citizens. By passing this bill, we have the opportunity to make a meaningful difference in the lives of hardworking Nebraskans who deserve a fair chance to get back on their feet. Thank you for your time, and for considering this important legislation. I'm happy to answer any questions.

**BOSN:** Thank you. Any questions? Thanks for being here. Next proponent. Good afternoon.

**AUTUMN WOOLPERT:** Good afternoon, Senators. My name is Autumn Woolpert, A-u-t-u-m-n W-o-o-l-p-e-r-t. I'm a certified nursing assistant and undergraduate student at Creighton University, studying finance and biology on the pre-med track. I'm here today to share my family's experience of medical debt, in the hope that you will support, support LB174. Sorry. This, this is a, a recent story. My family's story is a lucky one, financially. In April of 2023, my dad was diagnosed with st-- excuse me. He was diagnosed with stage 3 cancer. Both my parents were working full-time jobs and my dad had private, employer-sponsored health insurance. He followed his doctor's orders for lifesaving chemotherapy and radiation. And even after reaching his out-of-pocket minimum-- his out-of-pocket maximum, excuse me-- my dad still ended up with over \$4,000 of costs for chemotherapy and radiation that he could not pay in 2023. In January, after his out-of-pocket medical maximum reset for 2024, he stopped breathing during a seizure in a hospital emergency room, and he spent 2 days intubated before stabilizing and going home with a list of medications. We learned at that point that his cancer had spread to his brain. To buy more time with his family, he agreed to a surgery to remove 2 brain tumors, followed by another round of radiation therapy. The surgery and its associated hospitalization were not covered by insurance and were another unexpected cost for my family. And in May of 2024, he started hospice care in a facility. Excuse me.

**BOSN:** Take your time. You're OK.

**AUTUMN WOOLPERT:** Because he rarely missed a day of work, he had over 6 months of accrued sick days and unused vacation time, so he remained employed long after being physically unable to work. His normal paycheck and employer-sponsored health insurance covered his hospice cost of roughly \$500 a day until he passed away. If he had been forced to quit his job, my family would never have been able to afford hospice care in a facility, and he would have died much more painfully. My mom sent me here today to stress to this committee that if we were-- that we were lucky to be able to afford my dad's care, which gave us invaluable time with him alive. He did everything right. He had a good health insurance, he earned a middle-class income, and he died employed. He still went into debt. The hospital graciously offered him a payment plan with terms that he could afford instead of suing for the debt, and my family fully paid it off last year. Without this payment plan, my mom would have spent the last days of my dad's life worrying about how to pay for our living costs instead of being able to visit him every day. After he passed, my mom assumed his debt as the primary insurer. If her wages were garnished, she wouldn't have been able to pay for our mortgage or our own health insurance-- her own health insurance premiums, which comes out of her paychecks. She would have been struggle-- she would have also struggled to pay for her husband's funeral and burial costs. However, many other people in Nebraska who go into debt receiving healthcare are not nearly as lucky as we were. Their wages are forcibly garnished for a large percentage, and they must figure out how to live on a fraction of their income instead of being able to negotiate terms that work for them. So, Senators, I ask you to support LB174 to reduce the percentage of people's wages that may be garnished for medical debt. Thank you.

**BOSN:** Thank you for your testimony. Are there any questions from the committee? Thank you very much for being here.

**AUTUMN WOOLPERT:** Thank you.

**BOSN:** Next proponent.

**SHALIKA DEVIREDDY:** Good afternoon, Senators. My name is Shalika Devireddy, S-h-a-l-i-k-a D-e-v-i-r-e-d-d-y. I'm a second-year medical student at Creighton University and a constituent of District 7, and I'm also someone interested in pursuing internal medicine. I'm here today to express my support for LB174. Medical debt collection disproportionately affects those with lower wages, exacerbating an-- existing inequalities. For individuals like Robin Kerr, a 55-year-old from Norfolk who works 2 jobs to make ends meet, having wages garnished leaves almost nothing to support herself or cover her basic

needs. Stories like hers highlight the devastating impact against current garnishment practices on Nebraskans who are financially vulnerable. This financial strain is more than an economics issue. It's a public health issue. According to the Journal of Health Economics, wage garnishment increase the rate-- rates of stress and mental health challenges, including anxiety and depression. It also forces individuals to delay or avoid medical care, worsening chronic-- worsening chronic conditions like diabetes or hypertension. By lowering the cap on garnishment rates, LB174 ensures that Nebraskans retain enough income to meet the basic needs like housing, food, transportation, and ultimately reduce-- reduces the compounding effects of poverty on health. As a future internal medicine physician, this issue hits close to home. Internal medicine involves caring for patients with chronic conditions, many of whom are among the most financially vulnerable. Addressing wage garnishment practices through LB174 will directly improve the lives of my patients by reducing financial stress, enabling better adherence to treatment plans, and fostering overall well-being. LB174 represents an opportunity to ease financial burdens and promote better health outcomes for all Nebraskans. Thank you for considering my testimony, and I respectfully urge you to support this bill. I'm happy to take any questions.

**BOSN:** Any questions? Thank you for your te-- oh, did you say yes?

**DeBOER:** No.

**BOSN:** Sorry.

**SHALIKA DEVIREDDY:** Thank you.

**BOSN:** Thank you for your testimony. Next proponent. Good afternoon.

**BLAKE RECUPIDO:** Good afternoon. Blake Recupido, B-l-a-k-e R-e-c-u-p-i-d-o. I must say, it's thrilling to be here, playing a-- even if it's a small role in our legislative process. So I'm a constituent of District 9. I-- currently, I'm a second-year medical student at Creighton University and I'm an active member of Nebraska Medical Association. I'm testifying today in support of LB174. I thank the committee for their time. I know we've already been here a while and only on bill 2, but I would like to share a personal story, if that's all right. In 2014, my grandmother required lifesaving treatment in, in a-- as-- for a bone marrow transplant. And the procedure did not go as according to plan, and there were a lot of complications. And for the next 6 months, she remained in the hospital, and eventually passed away in June of 2015. Her husband, my

grandfather, was left devastated, not only from the loss of the love of his life, but also from the burden of thousands of dollars of medical debt. He was then pursued by debt collection agencies, as they used the many aggressive and predatory tactics that are still utilized today. I, at the age of 13, watched this unfold as my grandfather was forced to file for bankruptcy, and experienced many emotional and psychological effects as a result of the burdensome debt collection. I offer this narrative to the committee as a reminder that garnishment practices and collection of medical debt has drastic effects on real families and undue burden on loved ones, specifically, young children who are forced to watch their parents or grandparents suffer from debt collection agencies. Here in Nebraska, unpaid medical debt can be punished by imprisonment. The executive director of Legal Aid of Nebraska shares that collectors can summon a debtor for debtor's exam. And if the debtor fails to show, judges will often issue a warrant for the debtor's arrest. This very instance occurred in 2017, when a woman was arrested in front of her children after failing to appear for a debtor's exam over a \$177 medical debt. She was then forced to remain in jail for-- jail cell for 2 hours as she awaited her father to arrive with \$100 in bail. This case highlights the debt collection industries that prey on families in Nebraska, who are often marginalized and already experiencing many barriers. Additionally, this story further reveals that the burden that debt collectors agencies place on entire family units. In both middle- and low-income households, there is an association between the number of children in a family and the amount of medical debt in that household. In 2013, 34% of uninsured and 20% of insured American households reported that they had forgone necessities such as food, heat, or rent to pay medical bills. Households with dependent children are significantly more likely to take up medical debt to avoid selling their assets or reducing their investment spending in their children. I'm here before this committee as a medical student committed to becoming a pediatrician. As a child, I witnessed the effects of medical debt on my own family. And as I look to my future, I remain unwavering in my responsibility to care for the whole person, including the undue burden that medical debt and garnishment practices have on the entire family. Thank you for your time.

**BOSN:** Thank you. Any questions for this witness? Senator Storer.

**STORER:** Not really a question, but I just think it needs to be said. I wanted to let all of you that came to testify from Creighton and are in medical school know how encouraging it is to see you getting involved in the process, and also your commitment to your, to your profession. So thank you.

**BLAKE RECUPIDO:** Thank you.

**BOSN:** Senator Hallstrom.

**HALLSTROM:** Just along those same lines, I think it's great, too. Is, is this bill one that's been identified by students in the class as one to follow and get engaged in or anything specific associated with your, with your studies?

**BLAKE RECUPIDO:** Yeah, so there are people behind me who can speak more to this, but there are multiple organizations, SNAP being one of them, that we have involvement, both from the Creighton undergrad side and the medical student side that has shown interest in this bill. There are also many other advocacy groups that I mentioned, including NMA, Nebraska Medical Association, that encourages students to get involved with the legislative process.

**BOSN:** Thank you. Any other--

**HALLSTROM:** Thank you.

**BOSN:** Any other questions? Thank you for being here. Next proponent. Anyone wishing to testify in opposition? Oh. I assume you're testifying in the pro--

**SARAH MARESH:** Yeah, sorry [INAUDIBLE].

**BOSN:** That's OK. That's OK. Yes.

**SARAH MARESH:** I didn't get up fast enough. Thank you, Chair Bosn and members of the Judiciary Committee. My name is Sarah Maresh. That's S-a-r-a-h M-a-r-e-s-h, and I'm the healthcare access program director at Nebraska Appleseed, testifying in support of LB174 on behalf of Appleseed. We are a nonprofit legal advocacy organization that fights for justice and opportunity for all Nebraskans, and one of our core priorities is ensuring that all Nebraskans have equitable access to quality, affordable healthcare. And one key thing that we hear at Appleseed from community members is that one of the biggest barriers to healthcare is cost, and that's true regardless of whether they have health insurance or not. Because this bill can help protect individuals with medical debt, Appleseed supports it. Despite the high percentage of folks in Nebraska with health insurance, medical debt continues, which has significant secondary consequences. As you've heard, over 11% of adults in Nebraska have medical debt. The median medical debt in Nebraska is about \$1,500. Medical debt also disproportionately impacts communities of color in Nebraska.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

Communities of color have twice as much medical debt in collection than white communities. Medical debt is more likely to impact folks in worse health., Those living with a disability, Black people, low- and middle-income adults, new moms, those without health insurance, and people living in rural areas. Medical debt also has lasting impacts. Perversely, medical debt can negatively impact your health. People with medical debt are more likely to delay or forgo needed healthcare due to costs, which has lasting and compounding impacts. People with medical debt are several times more likely to report skipping doctor's appointment despite a medical need, not filling prescriptions, or skipping tests or follow-up treatment due to costs. Medical debt can also have dire financial consequences, leaving people to clean out their savings, frequent pawn shops, or struggle to afford, afford basic necessities like food and rent. Medical debt is also different than other types of debt, and it should be treated that way. Healthcare is a necessity, but people rarely have choices or power when it comes to their spending. We can't predict when we will need care or control the costs. People don't choose to get diagnosed with cancer or spend the first days in-- with their newborn in the NICU, or take their child to the emergency room for a broken arm. Due to the nature and urgency of healthcare, it can be difficult, if not impossible, to shop around for more affordable options. LB174 decreases the percent of wages that can be garnished from paychecks at one time for medical debts by 5%, giving Nebraskans more time to pay back medical debt. This bill only applies to medical creditors, defined essentially as providers of health services, and medical debt buyers, defined as those who specifically buy medical debt. Because the application of this bill is limited in scope, it should not be difficult to identify whether the debt at issue is considered medical debt. This bill also is unlike our current garnishment bill, in that it also specifically requires that creditors investigate and prove that someone is not head of family before they are permitted to garnish at the higher rate. Other states have attempted to tackle medical debt by limiting and prohibiting wage garnishment from medical debts, as well. Because this bill helps address disparities and protects Nebraskans, Nebraska Appleseed supports this bill and requests that this committee advance it. Thank you for your time, and I'm happy to answer any questions.

**BOSN:** Any questions? Thank you for being here.

**SARAH MARESH:** Thank you.

**BOSN:** Next proponent. Good afternoon.

**CIANNA CANNING:** Good afternoon, everyone. My name is Cianna Canning, C-i-a-n-n-a C-a-n-n-i-n-g, and I'm a constituent of District 7. I'm a sophomore at Creighton University, majoring in justice in society. I hope to be a lawyer someday, and I am honored to represent American individuals affected by medical debt today. LB174 is an attempt to reduce the amount of money debt collectors can seize from American families' bank accounts to repay medical debt. In 2014, Nebraska residents Conrad Goetzinger and Cassandra Rose were interviewed by an investigative reporting agency who stated the following: Like any American family living paycheck to paycheck, Conrad Goetzinger and Cassandra Rose hope that if they make the right choices, their minimum wage-paying jobs will keep the lights on, put food on the-- in the fridge and gas in the car. But every 2 weeks, the Omaha, Nebraska couple is reminded of a choice they didn't make and can't change. A chunk of both of their paychecks disappears before they see it-- seized to pay off old debt. The seizures are the latest tactic of debt collectors who have tracked the couple for years, twice scooping every penny out of Goetzinger's bank account and even attempting to seize his personal property. These seizures are a painful reminder of the more than \$20,000 of medical debt that the couple racked up while uninsured, due to 2 emergency room visits. I honestly dread paydays, said Goetzinger, because I know it's gone by Saturday afternoon, by the time we go grocery shopping. Across the country, millions of other workers face a similar struggle-- how to live when a large fraction of their paycheck is diverted for consumer debt. Those who fall into this system find their futures determined by laws that consumer advocates say are outdated, overly punitive, and out of touch with the financial reality faced by many Americans. Most low-income people are struggling to keep up with basic fixed cost, says Michael Collins, faculty director of the Center for Financial Security at the University of Wisconsin-Madison. That tends to absorb most of the budget. There isn't much left. The federal law regulating garnishment harkens back to 1968 and has not been changed since. The law is silent on perhaps the most punishing tactic of collectors. It doesn't prohibit them from clearing out debtors' bank accounts. As a result, a collector can't take more than 25% of a debtor's paycheck. But if that paycheck is deposited in a bank, all of the money in the account can be grabbed to pay down the debt. For most workers, the unexpected loss of a quarter of their wages would make life difficult. For low-income workers who live from paycheck to paycheck, it can be devastating. The National Consumer Law Center, in a model of reform law, argues that the cap needs to be lowered to 10% to preserve a living wage for debtors. As for Rose and Goetzinger, the couple takes each day as it comes. Recently, they learned Rose's 2 girls, ages 11 and 12, have cavities

and need caps. But when you have to choose between keeping the power on for the rest of the week or getting teeth done, unfortunately, teeth falls to a lower priority, said Goetzinger. It makes you feel hopeless, that you're working for no reason and that you're never going to be able to succeed, said Rose. How am I ever going to think about buying a house or putting my kids through college? Thank you.

**BOSN:** Any questions? Thank you for being here. Any other proponents? Those wishing to testify in the opposition? Good afternoon.

**DAVID HOUGHTON:** Good afternoon, Madam Chairwoman, members of the committee. My name is David Houghton, and I'm here today-- D-a-v-i-d H-o-u-g-h-t-o-n and I'm here today on behalf of the Nebraska Collectors Association. The testifier from the association was pulled away, unfortunately, today, so I am a less eloquent version and substitute for her. As we've heard today, we-- I, I would, as a threshold matter, like to state that we haven't seen the amendment, but we understand that the garnishment is, at least in the original bill, was to go from 15 for head of household to 10% on the underlying-- lying medical debt. The Nebraska Collectors Association is very sympathetic to the struggles that a lot of Nebraskans face when they're confronted with any type of debt, particularly low-income individuals that are suffering and faced with some medical debt. But the garnishment statutes in Nebraska already protect those individuals. If you are below the poverty line threshold, you will not be subject to garnishment. We also know in regards to medical debt, there's a vast amount of financial assistance available to low-income folks. Aside from the protections that are already in place, we believe that this bill may hurt families more than it helps. And the reason we think that is because the longer it takes for these people to pay off the debt, the more interest accrues. Right? So this debt will continue to accrue at 6% interest rate. And if it's-- if it-- it will go on for longer and longer. Additionally, as we hamper our healthcare providers with the ability to pay-- obtain repayment, this drives up the cost of medical services. So we think that this bill is far much-- has far more reaching consequences on the medical providers' cost than just what it would purport to state on its face. This Legislature has heard time and time again about the challenges for rural hospitals all over the state struggling to keep their doors open. And it really goes further than that, because we're talking about family-owned dentist offices, and chiropractor-- chiropractic offices, and these offices that treat some of these vulnerable populations in, in the first place. Beyond those concerns, we think that there's going to be a practical implementation problem. Many times, the judgments for which we are garnishing contain both debt for

medical and nonmedical services. Essentially, on these wage garnishments, we'd be asking the court to divide that up after a judgment has been made in a Garnishment Summons Act. And that's difficult, time-consuming for the collection firm, the lawyers on the debtor side and on the collector side. For these reasons, we'd oppose the bill as written. We would like to see the amendments, and we haven't had a chance to look at those yet. I'd be happy to answer any questions you may have, but I'd ask that you keep in mind that I'm not a practitioner in the area and we do have testifiers that practice in the creditor rights area that will be following my testimony, but I'd be happy to take any questions.

**BOSN:** Thank you. Any questions for this testifier? Thanks for being here.

**DAVID HOUGHTON:** Thank you.

**BOSN:** Next opponent.

**ROBERT BRYANT:** Good afternoon, Madam Chair, members of the committee. My name's Robert Bryant, R-o-b-e-r-t B-r-y-a-n-t. I'm here on behalf of my law firm, the Cada Law Firm. We do, do a fair amount of creditors rights, including for medical providers. The first thing I want to address, as David just touched upon, is the complication of splitting these things should not be understated. So we're dealing both with judgments that have already been entered. We're also dealing with this going forward, assuming this were to pass. It's not always so clear, as one debt has been identified as medical and another debt has been declared to be an issue at the bank, a utility, there's all sorts of different debts. They very often get lumped together into one lawsuit. For judgments that exist right now, opening those up-- I mean, we're talking about 6 figures worth of lawsuits that you're, you're going to open back up. And it, it would be impossible to track down what amount should be identified as medical debt, because you've been making payments that haven't been allocated between the different types of debt. As David also mentioned, there is large amounts of financial aid available to people, and also both our law firm in taking these cases and other law firms in taking these cases, and the hospitals and medical providers deciding to file these cases, we're making business decisions. And the people that we are pursuing are not people primarily who can't pay these back. I mean, there are people who have large deductibles. They get behind. They need to pay the bill and they have the money to pay it, and those are the people we're pursuing. You can't garnish people under a certain rate anyway, as David mentioned. And so lowering these amounts, again, as David

mentioned, is-- so it's hurting rural hospitals. It's hurting small medical providers in addition to hospitals. But it's also hurting the debtor because, as, as David mentioned, you're increasing interest, which right now is at 6.2% by court rule, and also, you're increasing court costs. Because every time you have to issue a new garnishment, you got to pay a court filing fee and you also have to pay a service provider, whether a constable or a sheriff, to show up at the, at the business to garnish that person's wages. Something I heard is that you can be arrested for medical debt, and the, the reference there is that you can be arrested after not showing up to a debtors' exam. And it's a bit misleading. And I don't think it has anything to do with this bill. I think it's inflammatory. I think that-- so what would actually happen is you get served, so you have either a constable or a sheriff show up at your front door to give you this piece of paper saying you have to appear at court. You don't appear at court, you don't contact the court, you don't contact the attorney, you have contacted nobody. Then the judge, almost all-- in, in every occasion-- I've never seen it not go this way. They're going to issue what's called a show cause. You then have a second time to show up to court. You again get personal service from a constable or sheriff. You don't show up. You're now in contempt of court and you can issue a bench warrant. So it can happen, but it's not something individual to medical debt and it's not something that happens before you have defied the order of the court on multiple occasions and made no attempt to contact the court to remedy it. And I'm happy to take any questions. Thank you.

**BOSN:** Any questions? Senator McKinney.

**McKINNEY:** Thank you, Chair. And thank you. Couple questions. How often do you file without knowing which debt you're collecting?

**ROBERT BRYANT:** Well, I know which debt I'm collecting. And could you clarify the question maybe?

**McKINNEY:** Well, I heard concerns of like, sometimes debtors don't know--it-- it's hard to divide or figure out like which debt, whether it's medical debt or something else, the difficulty surrounding that. So I was just wondering how, how often are you filing without, without knowing which debt you're collecting?

**ROBERT BRYANT:** Well, just to give a, a hypothetical example, we filed a lawsuit for a collection agency who has been assigned debts from both a hospital and a bank, but the hospital has \$500 in debt and the bank has \$500 in debt. You've now filed that lawsuit for \$1,000. You name both of the-- you name both of those people-- you name the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

hospital, you name the bank. Now you have a judgment for \$1,000. You've garnished somebody, you've collected \$250, so you got a \$750 balance. We're not assigning that money between the 2 companies and going back in court and figuring out which one the \$250 has gone to is next, next to impossible. So, so we know what debt we're filing. We know what debt we're collecting. They just become combined at the time that they become a judgment. Then, they become one number.

**McKINNEY:** OK. And the last individual had mentioned something about garnishment. And he said something about people that are below the poverty line don't get garnished. How do you figure that out, or how is that figured out?

**ROBERT BRYANT:** Sure. So technically, they-- you can issue the garnishment and we get served on their employer. The, the employer then has a duty within 10 days of getting served with that to file what's called interrogatories, which are questions you answer under oath about the person's wages. And so if they are below that threshold, the answer will come back that the, the employer is required to withhold \$0. And so, so no money gets withheld.

**McKINNEY:** OK. So the employer is the one that says X--

**ROBERT BRYANT:** Right.

**McKINNEY:** --person is making this, so that--

**ROBERT BRYANT:** Right.

**McKINNEY:** OK. All right. Thank you.

**ROBERT BRYANT:** Yep.

**BOSN:** Senator DeBoer.

**DeBOER:** Thank you. I think I understand now what you were saying about the sort of co-mingling of medical and other debt. Could we amend this bill such that it would say you take the percentage of the total debt of the judgment that is-- that represents medical debt. And then, use that as-- you know, amortize that out or something? I mean, would there be a way to do that that would say 23% of the judgment that we're garnishing upon is for medical debt. Therefore, we'll make sure that that 23% of the total judgment is-- I'm trying to think if there would be a way to do that. You know what I'm saying, about trying to figure out a percentage of the amount? I suppose when you do the

garnishment, do you do it over a period of time or a set period of time, or is it an unset period of time?

**ROBERT BRYANT:** So how a garnishment gets issued is that you file an application with the court to issue certain documents to the employer. It, it-- and that document says this, this debtor has a \$1,000 debt.

**DeBOER:** Right.

**ROBERT BRYANT:** And, and then they withhold that, and that-- that's in place for a certain period of time. Then you issue what's called a continuing lien, and then you issue a notice of extension. All in all, I think it lasts about 180 days each time you issue it. So they're just withholding the wages for 180 days [INAUDIBLE].

**DeBOER:** They're just withholding the amount. So let's say you withhold-- well, what's the amount that you withhold from a-- percentage of, of a paycheck that you normally withhold?

**ROBERT BRYANT:** So it would be 15% of disposable wages, which is after-tax wages.

**DeBOER:** OK. OK. I'll keep thinking about this.

**ROBERT BRYANT:** OK.

**BOSN:** Any other questions? Senator Hallstrom.

**HALLSTROM:** Currently, it's incumbent upon the judgment debtor to claim head of household status or otherwise. Are you concerned about provisions that require a sworn affidavit by the judgment creditor to allege head of family status or nonstatus?

**ROBERT BRYANT:** You know, I mean, it, it does-- it is shifting that burden. And it's shifting a burden onto us, when we very rarely know that answer. I would tell you that it-- it was previously said that most collection agencies file at the 25% rate without regard to that knowledge. I would tell you, in my experience, a lot of us issue it at 15% anyway.

**HALLSTROM:** And with, with regard to alternatives to wage garnishments, if wage garnishments become so limited for medical debts, would it be more likely that some other type of execution on personal property, or garnishment of some other investment account or bank account might be more, more likely to occur?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

**ROBERT BRYANT:** Just as a business decision, that would seem very likely. Yes.

**BOSN:** Any other questions? Thank you for being here.

**ROBERT BRYANT:** Thank you.

**BOSN:** Next opponent. Anyone wishing to testify in the neutral capacity? And while Senator Prokop comes up to close, I will note for the record that we had 21 proponents, no opponents, and no neutral comments submitted. Thank you, Senator Prokop.

**PROKOP:** Yeah. I thank the committee for your time this afternoon. I know you've had a full, full one. Couple things, and I'll, I'll keep it very brief because I know you still have plenty of work yet to do here. Just to address a couple different things that were mentioned over the course of the testimony, when it was discussed about that there are limits, as far as income when it comes to garnishments and just how low of income people can be, so the, the thing I mentioned in my opening warrants 30 times the federal minimum wage, that equates to about \$11,600 or thereabouts, if I'm doing my math correctly. So if you're below that, you can't be garnished, but anything above that you can, so we're talking about severe poverty there, as far as still being able to garnish wages from that. The other thing I wanted to mention is that, you know-- and I appreciate some of the personal stories that were mentioned. What we're talking about-- those 5 percents and what they're-- what they equate to in terms of real-life expenses and costs. You know, I think we get tied up in those 5 percents and not what that actually applies to and, and how people are trying to live their lives, so I appreciate the testifiers that, that came in and shared some of that. And then, I guess the last point I, I would make-- and if, you know, if, if there is a opportunity, I think, to, to improve how the distinctions are made between medical debt-- because that is what this bill is specific to. If we can clarify some certain things around-- and the, and the language in the amendment is specific to medical debt that we could clear things up from a process standpoint, I'd be happy to work with folks on, on that. So, thank you for your time.

**BOSN:** Thank you. Any questions? Seeing none, thank you for being here. That will conclude our hearing on LB174. Next up is LB136 for Senator Holdcroft. Could I see a raise-- a showing of hands how many friends are here for that? 2? 3? 4? The numbers are increasing. I'm going to start holding people to--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

**STORER:** Come up, quick.

**HOLDCROFT:** Well, if it will help, I'll skip my opening.

**BOSN:** Welcome to your Judiciary Committee, Senator Holdcroft.

**HOLDCROFT:** Good afternoon, Chairwoman Bosn and members of the Judiciary committee. My name is Senator Rick Holdcroft, spelled R-i-c-k H-o-l-d-c-r-o-f-t, and I represent Legislative District 36, which includes west and south Sarpy County. I am here to introduce LB136, a bill to require that any case involving service of a garnishment or continuing lien against wages where the debtor's employer is an-- is a corporation, such corporate employer may only receive service of process at the office where the corporate employer's registered agent is based. Currently under Nebraska law, when an, when an employer is served a garnishment interrogatory for an employee, the employer has a 10-day window to furnish answers to those interrogatories. If the interrogatories are not received by the court and file-stamped within 10 days of service, the employer can become liable for the underlying judgment that is someone else's debt. This 10-day dead-- deadline is an anomaly which-- when viewed in context with our neighboring states. South Dakota, Iowa, Kansas, Missouri, and Wyoming all allow garnishments 30 days to respond to interrogatories. Additionally, the garnishment summons is often sent to the location where the debtor is employed, not to the employer's registered agent, who handles such matters. Given Nebraska's tight turnaround and the difficulty of compliance, the Legislature, several years ago, changed the law for banks. Just like banks, corporations have one headquarters with multiple subsidiary locations across the state. Financial institutions received the carveout so no one branch receives a garnishment summons. The summons go to the institution's registered agent. LB136, therefore, simply states that like a financial institution, a garnishment summons may only be served upon a corporation's registered agent, information which is publicly available. LB136 is simply an attempt to level the playing field for businesses trying to do the right thing, who, because of minor statutory missteps, are threatened with liability for debt which is not theirs. Thank you, Chairwoman Bosn and members of the Judiciary Committee for your attention. I am happy to answer any questions you might have, but the testifiers after me will be able to answer them in better detail.

**BOSN:** Any questions?

**HOLDCROFT:** I will be here for close, and probably later.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

**BOSN:** No need to shout at the Chair. Not sure-- I've asked a lot of questions. First proponent.

**ANSLEY FELLERS:** Thank you. Thank you, Chairwoman Bosn and members of the Judiciary Committee. My name is Ansley Fellers, A-n-s-l-e-y F-e-l-l-e-r-s. I'm here today on behalf of the Nebraska Grocery Industry Association, Nebraska Hospitality Association, and Nebraska Retail Federation, testifying in support of LB136, Senator Holdcroft's bill, which would simply treat corporations like financial institutions by requiring garnishment summons service on the registered agent, as opposed to the location where the debtor is employed. I've handed you a copy of what an interrogatory looks like so you have some idea of what we're talking about being served on a registered agent, versus going to maybe a clerk or someone at a different location. Thank you to Senator Holdcroft for carrying this bill. As he stated in his opening, employers in Nebraska are provided a short, 10-day window to answer wage garnishment interrogatories, which is what I handed you, a deadline inconsistent with policies in most states. If interrogatories are not received by the court and filed and stamped within-- and file-stamped within 10 days, the employer can be held liable for the underlying judgment, meaning they could be on the hook for a debt owed by one of their current or former employees. This 10-day turnaround becomes especially problematic when inter-- interrogatories are, by current law, served on a retail location where a debtor is employed. The documents have to make their way to and be processed by someone at headquarters or at the registered agent. Another example we've presented previously was the possibility of a court clerk receiving interrogatory response on day 9 or 10. If for whatever reason, the response is not uploaded to the docket until day 11, an attorney representing a collection agency could recognize this deadline has passed and initiate default proceedings. In either of these instances, the employer would likely have to hire legal counsel to resist default proceedings and persuade the court that the responses were filed timely, or convince the court they were acting in good faith and should not be held liable for the judgment. This bill is intended to be very limited in scope. Our previous iterations of the legislation actually attempted to extend the 10-day deadline to more closely mirror other states, but we took into consideration opposition from the collectors about changes to the debt-- to the timeline. So the current bill simply extends to corporations the courtesy the Legislature saw fit to extend to banks. Opponents in this legislation contend that garnishment service on an employee's employment location, that is, a branch or location, is not proper service, and that creditors rarely, if ever, file garnishment

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

liability hearings against garnishees. There will be a testifier behind me who can describe to the committee actual circumstances where this type of service is taking place and companies are being held liable. This is a real problem, and we believe LB136 represents a really simple, reasonable solution. I'd also state for the record, if our current language is limiting to the point where it's a problem for small corporations, we're entirely open to an amendment suggestion, to the extent it doesn't alter the intent. With that, I'd ask the committee to advance LB136 and would be happy to answer any questions.

**BOSN:** Any questions? Senator Hallstrom.

**HALLSTROM:** Assuming there's going to be some opposition to this, Senator Holdcroft indicated that other states have more-- routinely, 30-day. Would that be something that would be acceptable, perhaps not to the opponents, but would that be something that would be acceptable from your perspective?

**ANSLEY FELLERS:** Yes. I think in conversations-- and you probably-- actually, Senator Hallstrom, would know better than me. I think, in talking to some other counsels, this is a good idea. This is proper service and it's consistent with other areas of statute to serve a registered agent with a legal document. So we kind of like this approach. But we did start-- we started by extending the timeline. We were instructed that that would kind of bump other aspects of the process in a really problematic way. So we walked that back, but that is where we started and that would definitely be acceptable.

**HALLSTROM:** It sounds like the financial institutions were pretty well represented.

**ANSLEY FELLERS:** I know. I'm sure they appreciate that. Thanks.

**BOSN:** Next-- any other questions for this testifier? Thank you for being here.

**ANSLEY FELLERS:** Thank you.

**BOSN:** Next proponent.

**KEN WENTZ:** Good afternoon--

**BOSN:** Good afternoon.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

**KEN WENTZ:** --members of the Judiciary Committee. My name is Ken Wentz, and I'm with the law firm of Jackson Lewis PC, and I'm here representing Casey's Retail Stores, among others. I have practiced--

**BOSN:** Can I have you spell your name for the record?

**KEN WENTZ:** Oh, yes. Sorry.

**BOSN:** That's OK.

**KEN WENTZ:** K-e-n, last name is W-e-n-t-z, and I have practiced labor and employment law for 17 years exclusively in Omaha. We represent-- our national law firm, we represent national clients all across the United States. As Senator Holdcroft mentioned, Nebraska is the one state that we're aware of that has a 10-day instead of a 30-day turnaround. Also, the-- it's unique, in that it doesn't require a garnishment summons to be served on the registered agent. So like many states, if you're a company in Nebraska, you have to register to do business in Nebraska, and you have to designate a registered agent. That registered agent is where you serve lawsuits. That registered agent is where you serve subpoenas. But, you do not have to serve the registered agent with a garnishment summons. So what do we typically see? We typically see the garnishment summons being served on retail locations, a Casey's front desk, a Burger King front desk, the receptionist of a, of a facility based in Nebraska that does manufacturing and production of a multistate company. So what happens is that retail clerk or that front desk worker looks at that, and as you could see by the example that the testifier before me passed out, it's not an easy document to look at. A front desk worker at Casey's, a front desk worker at Burger King probably isn't going to understand that document. And so, what happens is they might show it off to the side, they might forget about it, or they might try and route it to someone that might actually know what to do with it. And so, what happens then is all of a sudden the 10-day window starts to tick. And once that 10-day window closes and it's not filed, the creditor can ask the court to hold the company liable for the entire debt. And that's not the debt of the company. That's the debt of their employee, or maybe someone that was never their employee, or a former employee. We're going to have opposition to the bill. I don't know why, because all this says is you just have to serve this like any other legal document. But what I've heard is, well, this doesn't happen. We don't count the days. Well, I can tell you they do count the days, because I, I went all the way to the Nebraska Supreme Court on a \$5 million judgment that they were trying to hold my client accountable for, and they didn't accept the district court's ruling that they weren't

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

accountable. It was a 2-day lapse, and it was served on the front desk of a production facility in Lincoln, Nebraska, for a multistate company. Another example is out in Broken Bow, Nebraska, just this past week, there was another multistate company where the front desk was served with the garn-- the garnishment interrogatories like you have in front of you. And eventual-- and those were not timely returned. And they-- the truck that they-- the company uses to salt the parking lot of that facility was impounded by the sheriff, because that debt was not paid by the company-- not by the employee of the company, but by the company. So we have concrete examples of timing being counted. We have concrete examples of collectors and creditors going after companies for debts that aren't theirs. Typically, you have to file a lawsuit in order to go after a debt. Here, you just have to wait the 10 days. Once the 10 days is up, you can go after that debt from someone who doesn't even own that debt. If you have any questions, I'd be glad to take them. I believe this is probably one of the-- should be the easiest and most commonsense bill before the Legislature this session, but I might be wrong. Any questions?

**BOSN:** I just have one. Can you give me a case name for the case you took to the Supreme Court?

**KEN WENTZ:** Sure. It's a '22-- 2022 was the decision. And Florence Lake Investments v. Jason Berg was the case. The decision was issued by the Nebraska Supreme Court, I believe, in August.

**BOSN:** B-u-r-g?

**KEN WENTZ:** B-e-r-g.

**BOSN:** E.

**KEN WENTZ:** Yes. And my client's name in that case was Zoetis, Inc. And the fact pattern was Zoetis returned the garnishment interrogatories 2 days late, and Florence Lake Investments held the \$5 million judgment against a Zoetis employee, Mr. Berg. And they sought to hold my client, along with several other folks that had allegedly missed that 10-day deadline-- companies-- liable for the entire \$5 million judgment. When the district court sided with my client, they appealed it. So my client had to incur tens of thousands of dollars over a 2-day miss. Any other questions that I can answer?

**HALLSTROM:** Was the dec--

**KEN WENTZ:** Sure.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

**HALLSTROM:** Was the decision favorable?

**KEN WENTZ:** It was. The Nebraska Supreme Court got it right. Yes.

**BOSN:** Any other questions for this testifier? Seeing none, thank you for being here.

**KEN WENTZ:** Thank you.

**BOSN:** Next proponent. Good afternoon.

**JOSEPHINE LITWINOWICZ:** Good afternoon, Chairwoman "Bo-sen." We'll call you "Bo-sen." That's a compliment.

**BOSN:** OK.

**JOSEPHINE LITWINOWICZ:** But I just want-- you know, one comment before we start. I've been, I've been working on disability access. And I worked with Bob, Bob Ripley to get the buttons put in, you know, the disability? And this is still-- this is-- I just wanted to do that. And when I have to point to the side, I don't like the dignity-- lack of. And actually, I just wanted to make one other thing. And it's fine, because people-- I, I will ask people to move from there. Because I don't-- I feel-- when it's not crowded, I feel more normal, than like, off in a corner. So, OK. My name is--

**BOSN:** Thank you for sharing that, by the way, before you get started. I-- because I see your point. Because yes, now your back is to someone else, but you're just trying to reach the microphone. So.

**JOSEPHINE LITWINOWICZ:** Right. And so-- and I've been working, so I-- I'm-- I-- it's kind of-- I think it should, should get done. I'm a-- when a-- I was proposing one simple thing. The city council in Lincoln, they give you a microphone.

**BOSN:** Yeah.

**JOSEPHINE LITWINOWICZ:** And so I gave them plenty of time, and, and we couldn't even do that. So anyway, it's frustrating. OK. My name is Josephine Litwinowicz, J-o-s-e-p-h-i-n-e L-i-t-w-i-n-o-w-i-c-z, And I also go by "Miss Raven Hair" and "Ruby Lips." But anyway, I can't believe this bill. I mean, it, it could potentially-- employers might not hire certain people if they determine-- as-- you know, bad credit or I don't know. How did this bill ever-- what was the purpose of it, I wonder? So, yeah. It's just crazy. And I also-- I'm using this time, because I'm here all the time and I'm only going to do it here at like

DHHS. You lose 50 IQ points the moment you jump in a chair. And I just want to say from my point of view, because sometime-- I don't know what people think. But I can, I can build a Habitat house with my hand, the whole thing. And I did-- in New Orleans, just, just a couple-- a few of us renovated old and sometimes historic houses. I've also got MS. I was at UNL. I got a funded position. I left-- I got MS in 2008 and-- making stronger magnets like the one in your cell phone. I'm a fly fishing instructor. I was. And so, I just don't want-- I like to sea kayak. So just as a-- anyway. But I just wanted to, to say that, because it's relevant, because I'm going to be here a lot. And I thank you for that. And the last thing is that it's so serious. I, I wouldn't mention-- it is Trump is such a huge risk to our democracy. And just look for yourselves on how, how autocracies form. I'm not saying it's going to form right now, but, you know, may-- because Trump is a bumble fudd-- Elmer Fudd. He's a bumbler. I mean, if somebody really wanted to do it, you know, it would probably-- now that the Brownshirts have been squeezed out of the pustule, you know, and back on the streets, the Proud Boys and Oath Keepers. That's how-- and then you have-- so it's OK. It's endorsed. You can do this and, and all kinds of other things. Now Fauci doesn't have-- you know, they dropped his security contingent. That's like an invitation, too. When, when what has actually transpired-- so I'm not, I'm not going to bring this up again. I'm going to go-- I'm speaking at one of the next bills. But I can't believe that businesses are-- I don't know. And maybe I can ask somebody why it ever happened in the first place. And I think it could be an impediment to hiring. You know, somebody might judge, you know, health, you know-- anyway. Thanks.

**BOSN:** Thank you for your testimony. Next proponent. Anyone wishing to testify in opposition to this bill? Welcome back.

**DAVID HOUGHTON:** Thank you. Good afternoon, members of the committee. David Houghton, D-a-v-i-d H-o-u-g-h-t-o-n, on behalf of the Nebraska Collectors Association. I appear today in opposition to this bill. As we heard from the introducers, LB136 is seeking to limit the way a garnishment can ser-- be served upon an employer who's a corporate entity, namely, by requiring that service of a garnishment would be limited to a registered agent. The proponents have said that this is needed because garnishments are not being served correctly, leaving the garnishee to deal with improper garnishee liability hearings. What I think is important to note to the committee is the-- this behavior that's being complained of is already prohib-- prohibited by statute, so the, the service that, that it intends to correct, it wouldn't necessarily correct. The proponents are also stating that they're servicing-- they're getting served garnishments incorrectly, which is

causing liability. But I think, even as an earlier testifier mentioned, the courts will ultimately hold if there's improper service, they, they won't be exposed to liability. We agree, and we are sympathetic to the fact that it costs a creditor-- or debtor corp-- or receivers of a garnishment summons time when they're improperly served. And we-- but this statute doesn't keep that from happening. Right? So we think what would be more appropriate, appropriate is a non-legislative solution where we, in concert with the stakeholders and proponents of this bill, can try to eliminate some of the bad actors that are participating in that behavior. Really, what LB136 does, it's unduly restrictive and burdensome on these creditors, because these summons garnishments can be-- it's more restrictive than any sort of service of process. When you need to serve any kind of civil complaint, you may have to serve the officers or the directors of companies, and you have the opportunity to serve them at their headquarters or principal place of business. And what they're trying to do is restrict that. In fact, if someone you're serving-- a judge-- if you're serving papers on a, a garnishment summons on a small business, oftentimes, for those of you that are-- have any experience with civil-- the civil law practice, the registered agent may be totally MIA. He, he may, he may be dead, he may be on vacation, he may refuse service. It happens all the time. So the-- for the folks that are servicing these garnishment, garnishment-- garnishment summons, they need the opportunity to serve the principal place of business or sometimes, the officers or directors. And that's what we wish to achieve. In, in fact, you know, if, if you talk to a lot of attorneys, we've had some feedback from some of the attorneys that serve as registered agents for their clients, and I do as well. One thing we hear over and over is I'm the registered agent for this company. I get this garnishment summons. It is an inconvenience and a timewaster to me. I, I have to read it, review it, and flip it back over to my client. I can't bill them for that. They don't want to get a bill for \$500 or \$1,000 for me to send that to them and look it over. Oftentimes, the businesses actually want it sent to their headquarters, or they want it served on their directors or officers, particularly smaller businesses.

**BOSN:** I'll ask you to wrap it up.

**DAVID HOUGHTON:** OK. Yeah. I'll be quick. We, we would like to say we'd like to work with the stakeholders behind this bill and come up with some sort of amendment language. But respectfully, we would ask the committee not advance LB136 as written.

**BOSN:** Thank you. Any questions? Senator DeBoer.

**DeBOER:** Thank you. First all, full disclosure. This has been my bill for the last 6 or 7 years, and because of the bill limit, Senator Holdcroft agreed to bring it this year for me. So I appreciate that. So thank you, Senator Holdcroft. And I have been in on the discussions for all of these years, trying to figure out how to do it. And it is my amendment that you look at that I crafted based on those conversations to try to come up with the right answer of how to do this. I think that the folks who brought this bill would be happy to do-- if you wanted to do officers. And I mean, I can't speak for them, especially since it's not my bill. And I won't speak for Senator Holdcroft, but if, if you all would come up with who's the right person to bring it to at the corporate office so that it's not some random Casey's on 27th and O Street, I think they would be happy to do that. So do you have an idea of who you would accept as someone to bring the-- to sort of put as the point person?

**DAVID HOUGHTON:** Yeah. I think that there are plenty of people in the organization that would be happy to work with the sponsors of the bill.

**DeBOER:** I mean, I do feel a little frustrated because I did work on it for 6 years, so the "happy to work," it just, it just hasn't happened. It hasn't happened for so long that I had to find a more junior member to hand it off to so that, you know, when I'm term-limited out-- when I got this my freshman year-- there's someone who has it. I, I don't mean to be frustrated, but I am frustrated. So--

**DAVID HOUGHTON:** No, totally understood. What we're trying to do is address-- we're, we're concerned that maybe it's trying to address a problem that doesn't exist.

**DeBOER:** It does exist. We heard that it existed. I've heard for 6 years that it existed. I've heard multiple examples from multiple people for 6 years. I am convinced it exists. And I sit up here, so I guess it must exist, at least in my hand-- head. So, I think Senator Holdcroft thinks it exists because he's willing to introduce it. I think it exists. This is a problem we're trying to solve, so please help us solve it. So if we can identify a person that is not the 17-year-old who's been employed to work at the front desk of the Gap or whatever, or whoever it is-- I don't even know if the Gap exists anymore, but anyway.

**BOSN:** Maybe not anymore. It's 5:00.

**DeBOER:** Anyway, please help us identify who that person is that is not just the franchise but is in the corporate office, so that we can do this process properly. I brought the 30 days. The 30 days was objected to. I yelled at them and said, 30 days doesn't work. It puts things on too long of a time frame. And so I said, we're going to keep it at the 10 days, but we're going to find a different solution. And I think it needs to be a legislative solution, because I tried non-legislative solutions and they didn't get us anywhere. So, I've never gotten to say that before on the record because I've always been bringing the bill. So please help me find that solution. Help Senator Holdcroft find that solution.

**DAVID HOUGHTON:** We would be happy to work with Senator Holdcroft.

**BOSN:** Any other questions for this testifier? Next opponent.

**DAVID HOUGHTON:** Thank you.

**ROBERT BRYANT:** Good afternoon again, Madam Chair Bosn and members of the committee. I'm here-- Robert Bryant, R-o-b-e-r-t B-r-y-a-n-t, here on my own behalf, and behalf of my law firm, Cada Law firm. So to address, I think, the ideas that you were asking the prior testifier for, I-- I've only been an attorney for 3 years. I maybe haven't been in on that conversation that's gone back more years than I've been an attorney. But our main concern with this bill, I think, comes down to understanding it really well. So first, the way that this bill identifies corp-- corporate entities, it's not just corporations. It's corporations LSEs, I believe limited partnerships, every form of business entity. So we're talking about not, not just big corporations, we're talking about single-member corporations, single-member LLCs, family corporations, family LLCs. A lot of those companies are not operating the same way as banks. So, you talk about banks being served in a specific way. The, the regulations are not anywhere near the same. So then we talk about who-- this bill says that service of this garnishment summons can only be upon the registered agent. That is the only option. The current options are any option you have for service of a corporation that you would serve the complaint, and that's how you can-- you can serve the summons in the same way. And I believe there's 7 options. Just one example of an additional option is that you can serve an employee at the registered office. So my law firm, myself, I serve for a couple dozen companies as a registered agent. My boss serves for a couple hundred companies. If my boss is out of the country, anyone in his office can be served because they're at his registered office. Our concern with this bill, it being only the registered agent, that is a single person who can't

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

always be found. We need alternatives to be able to serve that. And so, that's what we're offering. And we've-- we heard from the prior testifier that there have been 2 examples, and maybe there are more that exist, about front desk people being served. That is not currently legislatively allowed. It-- I mean-- and I understand that it creates some requirement for somebody to respond to it, but it, it-- it's still not allowed, and so we're happy to work on that language, as the immediately previous testifier mentioned. But having only a registered agent, which is a single person, be the only option for service is just not a tenable solution. You can't even serve people at their office, as is, as is currently allowed in state statute. That would no longer be allowed. And so, that's all I have. Thank you.

**BOSN:** Senator DeBoer.

**DeBOER:** So who would be the right person to serve? So you're right. You weren't here at the beginning of when I started it.

**ROBERT BRYANT:** Sure.

**DeBOER:** Who would be the right person to serve that's not the 17-year-old?

**ROBERT BRYANT:** Right. Well-- so I mean, the current language is that it is managers and officers of the corporation, the registered agent, or employees at the registered office. I'm not sure-- I mean, none of those is the 17-year-old at the front desk of a Casey's. That's why it's not legislatively allowed now. It's not in state statute. And I think all those people are proper people for service.

**DeBOER:** OK.

**BOSN:** Senator McKinney.

**McKINNEY:** Thank you. But although not a 17-year-old at a Casey's, could a manager at a Casey's have ignorance of what they're receiving? Just-- because you could be 18 as a manager. I know people where that happened. And not-- somebody could get served, and just like, what? What is this? And just throw it.

**ROBERT BRYANT:** It could happen.

**McKINNEY:** I think that's the problem. How can we get around that problem? Because not all managers are created equal.

**ROBERT BRYANT:** That's true.

**DeBOER:** They could be 17.

**McKINNEY:** They probably could be.

**ROBERT BRYANT:** Right. I don't know how to solve that for a company.

**McKINNEY:** All right.

**BOSN:** Any other questions?

**ROBERT BRYANT:** I suppose my answer would be that-- I mean, serving in a capacity that's defined by the Legislature, maybe the actual language is directors and officers of corporation. You know, by serving in a role for a company, you are required to meet certain laws, and that doesn't only apply to garnishments. It just, in this case, does. And so, you have to be aware of what you're-- as a company, what you're naming a person to do. You're doing the same thing when you choose a registered agent. You're choosing somebody who would be responsible.

**BOSN:** Thank you for your testimony.

**ROBERT BRYANT:** Thank you.

**BOSN:** Next opponent. Anyone wishing to testify in the neutral capacity? And while Senator Holdcroft comes up, I will note there were no letters received of any kind.

**HOLDCROFT:** Well, thank you, Chairman Bosn and, and members of the Judiciary Committee. And, you know, I, I had the same thought that, that Senator Hallstrom had, that maybe the solution is to increase, you know, to 30 days like other states do. But I expect the same opponents would have a problem with that, because instead of getting their money in 10 days, now they'd have to wait 30. I did meet with the collectors about a week ago. They expressed their opposition, and I said I'd be happy to work with them on, on language that would satisfy their concerns. And we heard nothing. So I really think the opposition to this bill, they're not really interested in, in, in seeing any changes. It's just going to be more of an issue for them if we identify a specific individual, the registration agent-- the registering agent that they have to respond to. They would-- I think they would really just rather drop it off, and, and if it doesn't get processed, well, within 10 days, they can go to the courts and have the company pay them. They're not losing any money. They're just--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

it's just they have to wait a little, a little bit longer. So, you know, I'm happy to wait-- I mean, to, to get with them again and to try to get some language. Happy to work with them on that. But let's-- you know, at, at some point, we got to say enough is enough and advance the bill. I'm not carrying it for another 6 years.

**BOSN:** Thank you. Any questions? Thank you for being here. That concludes the hearing for LB136. Next, we will have LB70, from Senator DeBoer. Can I-- this-- you are--

\_\_\_\_\_ : LB65.

**DeBOER:** LB70 is first.

**BOSN:** LB70. Yeah. Good afternoon, Senator DeBoer. Thank you for being here.

**DeBOER:** Good afternoon, Chair Bosn and members of the Judiciary Committee. My name is Wendy DeBoer, W-e-n-d-y D-e-B-o-e-r, and I represent the 10th Legislative District in beautiful northwest Omaha. Today I am introducing LB70, which would provide for second parent adoption. Nebraska law currently allows 3 major categories of adoption. The first adoption is adoption of a minor child by any adult person or 2 persons. The second type of adoption is the adoption of an adult child. The third type of adoption currently allowed under Nebraska statute is step-parent adoption. In all cases, no person in Nebraska may have more than 2 legal parents. You can have zero, you can have 1, you can have 2, but no other number. And LB70 does not change that. I'll note that the-- where any 2 people can adopt the child, to be very specific, any 2 married people or-- can adopt the child. But we do not have this particular kind of adoption, which is a, a person has a parent. One is adding on that is not the stepparent. LB70 would provide for second parent adoption, which is similar to stepparent adoption in many ways. Second parent adoption allows a second person who is not married to a child's parent to legally adopt the child. Under LB7 [SIC], a child who has a-- has one sole legal parent may be adopted by a second person with whom the child has a parent-child relationship already in existence. The child in question must have only one legal parent, and that parent must consent to the adoption. Second, the second person seeking to adopt the child must have this parent-child relationship with the child. This is the same, same standard, this parent-child relationship, which is currently applied concerning the adoption of an adult child. It's already in statute. Finally, a home study must take place before a second parent adoption is permitted. So there are a variety of situations in which a

second parental relationship with a child has been established but is not legally recognized. Suppose my sister's husband-- you've all seen pictures of my nieces and nephews. So suppose that Jo, my sister, and her husband, who have three beautiful children, Evie, Charlotte and Ben, suppose Ryan is killed in military service or in some other way-- a bus. Sorry, Ryan. And so I move in with Jo to help her to take care of her 3 kids. If you met them, you would see that one person cannot do this alone. I currently have a job that offers insurance. So if Ryan passed away, since Jo stays home with the kids, Jo and her kids would lose their insurance. But in this instance of Ryan passing away, me forming a parent-child relationship with my nieces and nephew, under this bill, then I would be allowed to adopt Evie, Charlotte, Charlotte and Ben provide insurance with them, help my sister take care of them. But current law would not allow this adoption, as I would never be marrying my sister. I wouldn't be a stepparent. I wouldn't be married to my sister, so I couldn't adopt them through the stepparent adoption. LB70 would allow this to cur-- to occur and would provide for stability and permanency in the lives of children who only have one sole legal parent. I'll tell you, this bill has, like the last one, been a bit of a journey. I have introduced a version of this bill almost every year that I've been here, and I will continue to do so. And I want to thank the Catholic Conference who's coming to opposition-- in opposition to this bill. And I know they are. But I want to thank them because they have really, over the years, helped me to narrowly tailor this bill, make it a better bill. The State Bar Association used to be in opposition to this bill. I understand, though, they have not met and had their formal disposition of bills yet until Friday, that they're not going to be in opposition anymore, that we've solved all of their concerns over the years. So the Catholic Conference, I know we still haven't gotten all of theirs. Very kindly, Mr. Meyer-- Miner called me or something this morning-- stopped in-- I don't know which-- and said that he would be opposing. So I appreciate his collegiality there, and we're working on that. But with the help of the State Bar Association and their Family Law Subcommittee, we have included provisions which point the court how to handle parenting issues, should there be a deterioration in the relationship between the two parents. The goal of this billy-- this bill is permanency and stability in a child's life, often when something has happened that isn't great. Adoption isn't something that people do just for the fun of it. And even if that were the case, the court still-- and this is a, a-- kind of a key point-- the court still has to approve the adoption. It isn't just automatic if the parent, the sole parent consents. The court still gets to look at it and decide whether or not it's appropriate in this case, not just the home

study, but just as a general do they think it's appropriate? The court still has the ability to approve or reject adoptions if the parent is unfit or if it isn't-- if just-- they don't think it's the right circumstances. Nothing in LB70 mandates adoptions occur. Rather, LB70 recognizes that life is messy. It doesn't always follow simple, simple rules. A nuclear, nuclear family is a great idea, but even a nuclear family may be disrupted by an unexpected death of a parent. Now, I know that something that you maybe brought up is in the case of me and my sister, taking custody or, or me becoming the adoptive parent of my sister's 3 kids. What happens if Jo remarries? And the answer is I can relinquish my parental rights, and the new stepfather could adopt the kids in that case. In the rare circumstance where that occurs, there is a way to do this. I do have something that I'd like to pass out to you. There's a, a young man named Landon Jorgensen. Landon has grown up in, kind of, this bill. He's been and testified in this bill many times. But today he has a, a dance competition, so he's unable to be here. Landon has 2 mothers who cared for him as a child, he grew up in their household, then they split. At the time of their adoption of Landon, he-- they were unable to get married. So one is the legal parent and one-- I think-- I'm-- think I'm getting this right, but you'll hear from his mom-- is the biological parent. So there's a biological parent. She's not the legal parent. And there's a legal parent. The biological parent who is not the legal parent-- I think that's right-- is, is unable to do things like sign permission slips, is unable to do things like provide insurance on her insurance for her child. So what we're trying to do-- and please read what Landon says. Because if you saw this kid, he's so precocious. He's really great. What he wants is he wants both of his mothers to be his mother. He wants to be able to be adopted by his biological mother so that both of his mothers, who share parenting time, can be his mothers. They already have that relationship. It's already true in fact. I'm simply asking us to provide a venue, a, a pathway for what's already true in fact to be true legally. Thank you. I'll answer any questions.

**DeBOER:** Any questions from the committee. Senator Hallstrom. Sorry.

**HALLSTROM:** Yeah. Senator DeBoer, you, you mentioned they, they could consent, a situation where the, the second adult adoptive parent has a falling out and doesn't consent. If you could speak to that.

**DeBOER:** Yeah. Thank you, Senator Hallstrom. So I think what you're saying is in the situation where we've had a second parent adoption-- this has passed-- we have a second parent adoption and then the two get into a falling out. In fact, this bill envisions that exact situation and provides for the court's ability to handle things like

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

parenting time and all of those sorts of things that already exist if you had, for example, two people who are unmarried who have a child biologically. So it would be the same mechanism in which you handle disputes between those sorts of folks.

**HALLSTROM:** But, but if the, if the person that comes into the life of the other parent, they either get married or they develop a relationship and want to adopt the child, and the interim second adult under this law doesn't consent, they would not have the ability to adopt that child?

**DeBOER:** Because the second parent-- so similarly to if you had a, a biological family that was split up and a stepparent comes in. Unless the other parent relinquishes their parental rights the-- or the court, the court can also say this is an unfit parent. We're going to cut off paren-- parental rights. Unless their parental rights are cut off voluntarily or otherwise, then no, you can't have 3 parents. So there wouldn't be stepparent adoption available in that case.

**HALLSTROM:** Thank you.

**BOSN:** Any other questions? You're sticking around for close. I know.

**DeBOER:** I am.

**BOSN:** First proponent. Anyone wishing to testify in support?

**JOSEPHINE LITWINOWICZ:** Oh, sorry.

**BOSN:** Welcome back.

**JOSEPHINE LITWINOWICZ:** Thank you. You got the main deck of the ship. I'm just going to try and speak from here. This is the-- this-- I just wanted to draw the attention from the people here in this body that have been trying-- and they've been promising things. Anyway. My name is Josephine Litwinowicz, J-o-s-e-p-h-i-n-e L-i-t-w-i-n-o-w-i-c-z. And I, I, I, I just want to know if, in this bill-- I know the answer. Interesting. If a juvenile-- the court-- or somebody-- there's got to be a validating body that said what if the person is, is-- would be called trans, minister, or, you know, what-- a gay or something, so would this person-- could be judged not to be fit based upon who they are as God made them? Is that, is that going to be-- are we doing that? Is that still-- I just want to bring it up to everybody's attention. I was a Teammates mentor, and you'd be glad to know that I was for this child. I foll-- I like to follow the biblical Jesus, not the mega church, MAGA, NCC Jebus [. Right. And I think it's-- I think

that the character-- believe in the, you know, the character, no matter what, of Jesus, the biblical one is so far away from a lot of churches. You know, I went to a Missouri, Missouri Synod Lutheran church in town. And I was, I was saying, you know-- yeah. I know this and that. But I went to go talk to them. And I said, I know the Bible. I said, I know all that, you know-- is-- like the 7 days creating-- I was really in trouble, and I had mentioned this in some context. Sometimes I don't speak well, and it would be nice to have a couple more seconds if I need it. But anyway, so as I was talking to him, it came up. And I said, yeah, I know, you know, the, the, the, the Earth wasn't made in 7 days. And he proceeded to tell me, you know, that the, you know, the Bible is as it is, you know. It's 7 day-- you know-- and it was-- so it's frustrating. It's nice to see how many freshman senators made the Judiciary. It's kind of neat. So I, I just hope we consider and we can un-F the situation, where people like me-- you-- you'd be glad to have-- raise a child. You know the only reason why I haven't adopted one? Well, one, you wouldn't let me. I-- and two, is, is because I couldn't collar the kid and bring him back home, you know, like you're messing up. Because, you know, they're going to obey. I'm, I'm not going to be a parent that's not-- if I can't go save them or, or whatever then I-- I'm not going to be helpless. So I don't, and I didn't even try. And so anyway, the, the little biography I gave is once a biennium. I thought it was appropriate. And so, you-- sometimes I don't-- I think-- there's more to me than, you know, a lot of times when I'm trying to speak and I, I can't get the words out. Anyway, thank you. And I hope we're going to take care of this gender thing. By the way-- you know, bye. Have a good one.

**BOSN:** Thank you. Any-- next testifier in support. Next proponent. Good afternoon. Thank you for being here.

**JOEY ADLER RUANE:** Good afternoon, Chair Bosn and members of the Judiciary Committee. My name is Joey Adler Ruane, J-o-e-y A-d-l-e-r R-u-a-n-e, and I am a registered lobbyist here for OutNebraska. Unfortunately, our executive director had to leave, so you are stuck with me instead. And she just asked me to read her testimony. Thank you, Senator Bosn and members of the Judiciary Committee for the opportunity to provide testimony. My name is Abbi Swatsworth. OutNebraska is a statewide nonpartisan nonprofit working to celebrate and empower LGBTQ Nebraskans of all ages. OutNebraska speaks today in support of LB70. We share the Nebraska value of caring about children. Adoption and parenting are about creating loving, stable homes for kids and about making sure children have the nurturing environment that allows them to thrive and succeed. A legally recognized parent-child relationship provides essential protections for children.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

These include access to a parent's health insurance, inheritance rights, and the ability to collect benefits such as Social Security in the event of a parent's death. It also ensures that a child has 2 parents who are fully responsible for their care, upbringing, regardless of what life brings. For many LGBTQ families, having both parents recognized legally is critical to protecting their family's future. Without legal adoption, the nonbiological parent may be treated as a stranger in the event of a family emergency, separation, or death of the biological parent. The inability for a second parent to adopt their children harms our Nebraska families. Parents want what is best for their children and have a responsibility to care for them. If a parent wants to share legal responsibility for their child and thinks that having a second legally connected parent is in the best interest of their child, the law should support them in making that decision. These parents have built the foundation to support their children tirelessly and endlessly, and it's time to join our Midwestern neighbors and update our current law so that all children can legally have 2 parents by advancing LB70 out of committee. Thank you. I'd be happy to try and answer any questions.

**BOSN:** Thank you for being here. Any questions for this witness-- testifier? Sorry.

**JOEY ADLER RUANE:** Thank you.

**BOSN:** Thank you. Next proponent. Good-- now evening.

**SHILO JORGENSEN:** It is, huh?

**BOSN:** Thanks for being here.

**SHILO JORGENSEN:** Thank you very much. Shilo Jorgensen, S-h-i-l-o J-o-r-g-e-n-s-e-n. I'm here in support of LB70, and I thank, for the third time now, Senator DeBoer, for helping us introduce this bill. I am one of Landon's parents. I am the biological parent, but in the state of Nebraska's eyes, I'm not his legal parent. As his parent though, my primary goal is to provide for my son both security and stability. But without the legal protections, families like mine face unnecessary vulnerability. You see, my ex-partner and I had Landon in 2011, which was prior to the passing of the Marriage Equality Act, thus preventing me from being legally placed on his birth certificate. Had I known then what I know now, we would have probably drove to Council Bluffs and had him born because this would not be an issue. You know, we ended our relationship without marrying, but also without impacting our ability to parent for his best interest. LB70 would

insure both of my son's parents, regardless of our marital status, are legally recognized as equal guardians. This would not only be in the best interest of my son Landon, but it also aligns with Nebraska's own commitment to supporting strong, stable families. This bill validates the emotional and practical realities of not just my family, but countless families in Nebraska who work every day to provide loving, nurturing homes for their children. We are both present, active, involved with his school, dance, and life at home. I do math homework, OK? But without the involvement of the courts, we have split custody and we happily share his financial obligations. And if there's a parent here today, you know that those are expensive. Due to the current laws, I'm unable to cover Landon on my own health insurance. And if I pass away tomorrow, my own biological son would be subject to a higher percent tax on his inheritance. And if my ex-partner dies in a car accident, I would have to prove my ability to adopt my own flesh and blood. Nebraska has an opportunity at their hands-- to demonstrate its own commitment to family values by ensuring all children, including my son, have the legal and emotional security of being fully connected to the parents who love and care for them. This would remove unnecessary barriers and give families like mine the recognition and protections that we deserve. I respectfully ask that you give full consideration. Doing so would res-- would, would represent a significant step forward for Nebraska's families and send a powerful message of support for all children in our state. I'm happy to answer questions or even share a picture of Landon.

**BOSN:** Well, now I want to see a photo.

**SHILO JORGENSEN:** All right.

**BOSN:** Then we'll open it up for questions.

**SHILO JORGENSEN:** And he has been here the last 2 years, in suit. So--

**BOSN:** I recall that from last year.

**SHILO JORGENSEN:** Thank you for your time.

**BOSN:** Are there any-- I guess I didn't open it up. Are there any questions for this testifier? Thank you for being here.

**SHILO JORGENSEN:** Thank you.

**BOSN:** Yeah. Next proponent. Good afternoon.

**CHARMAINE JORGENSEN:** Hi. My name is Charmaine Jorgensen, C-h-a-r-m-a-i-n-e J-o-r-g-e-n-s-e-n. I'm here to speak in support of LB7-- LB70. I would like to thank the committee and Senator DeBoer for allowing me to speak on this legislation. I'm not here to speak to you all as someone with a lot of mumbo-- legal mumbo jumbo, but as a grandmother of a very special young man, who some of you have had the pleasure of seeing the last 2 years. What I need you to understand is that he did not become this amazing young man by chance. He has 2 very supportive parents in his corner who have given him the confidence at the age of 12 and 13 years old to come here and speak to you about the importance to him. Let me say this again: The importance to him of having had both his parents' names on his birth certificate. Unfortunately, as much as he wanted to be here today, due to a conflict he's unable to be here. I've been here at the last few hearings for this bill, and the only opposition I've heard is that this type of bill will jeopardize the nuclear family. I'm not sure if you're aware, but based on Pew Research done in 2023, the nuclear family has been decreasing for a few years now, and it's being replaced by alternative family. My grandson is part of that alternative family, whether we like it or not. Just because our situation fits into the alternative family agenda does not mean that we don't support a nuclear family. The family-- the, the family unit that has changed so much from when I was a child, but it still is a family unit, no matter what you label it. We hear all the time about how we need to protect our children. Well, LB70 looks to do just that. I was raised Catholic. I was baptized, went to catechism, had my first communion. I'm aware that the Catholic Church has beliefs and rules, but I also know a lot of their rules are outdated and not necessarily followed. Catholics get divorced. Catholics live together without marriage. Women who are Catholic take birth control, et cetera, et cetera. These are old, outdated beliefs, just as some of the legal laws we deal with are outdated. The Catholic Church needs to come into the 21st century, and our laws need to be adjusted to reflect the new family structures that are everchanging. God forbid someone wants to step up and be responsible for their child financially, emotionally and in all ways necessary to give them a chance to be as, as successful as possible. The saying that it takes a village to raise a child? Well, my grandson has a village. He just needs the law to support him. Unfortunately, due to the conflict, half of his village is here to speak on his behalf. The other half is supporting him at his competition that he's participating in today. But either way, his village is cheering for him on-- in every aspect of his life, because that's what he deserves. Thank you for your time.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

**BOSN:** Thank you. Any questions for this testifier? Thank you for being here.

**CHARMAINE JORGENSEN:** Thank you very much.

**BOSN:** Next proponent. Good evening.

**SCOUT RICHTERS:** Good evening. Scout Richters, S-c-o-u-t R-i-c-h-t-e-r-s, here on behalf of the ACLU of Nebraska. I am circulating written testimony, so I will not read the whole thing to you right now. But to summarize, the parent-child relationship is protected under the Fourteenth Amendment to the United States Constitution, as well as the due process clause of the Nebraska Constitution. As you heard from other testifiers, family structures have become more diverse over time. Parent-child relationships, even those that don't fit into the traditional nuclear family box, must be legally protected. LB70 recognizes that when there is a second adult in a child's life that has acted as a parent to that child and the sole legal parent consents, the second adult should be permitted to adopt the child. Adoption is the strongest legal status to protect children. Attorneys can draft wills, powers of attorney, and guardianship documents to offer some protections, but there are some protections that are only available through adoption. LB70 establishes a mechanism with appropriate guardrails for a second parent to legally adopt a child, offering stability and permanency to Nebraska children, as you've heard from Senator DeBoer and other testifiers. For these reasons, the ACLU of Nebraska offers its full support for LB70 and urges its advancement.

**BOSN:** Thank you.

**SCOUT RICHTERS:** Thank you.

**BOSN:** Any questions for this testifier? Seeing none, thank you for being here.

**SCOUT RICHTERS:** All right. Thank you so much.

**BOSN:** Next proponent. Anyone wishing to testify? Opponents. Anyone wishing to oppose the bill? Good evening.

**MARION MINER:** Good evening. Good evening, Chairwoman Bosn and members of the Judiciary Committee. My name is Marion Miner, M-a-r-i-o-n M-i-n-e-r, and I'm here on behalf of the Nebraska Catholic Conference, which advocates for the public policy interests of the Catholic Church and advances the Gospel of Life through engaging, educating, and

empowering public officials, Catholic laity, and the general public. And I want to thank Senator DeBoer for the word-- the kind words that she had for us and for me at the beginning of this hearing. And I, I will repeat that from our side of the-- of, of this conversation. Senator DeBoer has always been courteous, has always been open, has always been willing to talk, and that's something that we're very grateful for. But the Conference opposes LB70. This bill makes a second adult who is not the child's mother or father and is not married to the child's mother or father eligible to become permanent-- permanently equal to the child's natural parent and rights and authority over the child, permanently. The second adult's permanent authority would continue under LB70, even if the relationship between the child's natural parent and the second adult later dissolves or deteriorates. And it's one thing to understand and make provision for how you deal with an intractable conflict in the law, which this latest version of this legislation does, it anticipates that there will be conflict. It's one thing to anticipate that and to make room for it. It's another thing entirely to say from the front end that this person who is the parent of the child, always has been the parent of the child, is going to be put on the same level as someone who is perhaps pretty new to the household. Maybe they're only-- temporarily, never marries the existing parent, and is now out of, out of that person's life. It's another thing to create the conditions for this second person to become a permanent fixture, whether or not the first person has second thoughts and that relationship deteriorates. Then it's creating the conditions for conflict, for instability, and for division with the child at the center. It's the child who pays the price for this. Now, I'm already down to one minute, so I'm going to skip to the end. I would really appreciate, though-- you, though, reading through the hypothetical scen-- scenario that I have in my testimony-- in my written and handed-out testimony, because that illustrates some of the possible scenarios that not only may happen, but will happen should this pass into law. But to conclude, every child is a gift and a trust to his or her parents, and every child has the natural right to a permanent relationship with his natural or adoptive mother and father who have themselves made a commitment of permanency, not only to the child but to each other. That commitment is crucial to the stability and permanency of the family on which the well-being of the child depends. LB70 ignores this. I will wrap up there, as we respectfully ask that you not advance the bill from committee. And I'm happy to take questions if you have any.

**BOSN:** Senator Holdcroft.

**HOLDCROFT:** Thank you, Chairwoman Bosn. Thank you for being here, Marion. Can you, can you give us an example of where you think this might go wrong?

**MARION MINER:** Right. So the example I give-- I've, I've got a few. The example that I give in the written form of the testimony that I have is a scenario whereby, let's say you have a single mom. Perhaps her husband has died, she's a widow, she has a 5- or 6-year-old child, and she meets somebody. This person comes in and it's-- lives with her and the child, perhaps for a period of about 18 months, develops a relationship with the child, right. There's nothing on the surface that's wrong with this person. Court approves. Right. Under current law-- and this is something I didn't get to in my original testimony-- under current Nebraska law, where the single mom, to take one example, has need of somebody to come help her out, to allow-- to give permission for medical treatment, to drop the kid off at school and consent to extracurricular activities, ABC, XYZ, any number of things that they might be able to help. We have a solution for that, and that is through filling out a temporary delegation of parental authority. That's under statute Section 30-2604. And that is quick, cheap, easy. I've attached a template produced by the Nebraska Supreme Court to my testimony. And it gives the woman, the single mom in our example, something-- just exactly what she needs, giving that temporary authority to somebody who can help her. The other thing that's really important about that, though, is that it's revocable, right, and that-- or she can choose simply not to renew it. So when the expediency ends or that relationship goes bad, then she and the child can walk away and move on with their life. That's under current-- and that ex-- now ex-boyfriend has no rights over the child, appropriately has no rights over the child. That's current law. Under LB70, we enter this scenario where instead of filling out a temporary delegation of parental rights, perhaps after 18 months of this guy living with her and her child, the mother says, I'd like you to adopt the child with me. OK, so that happens. A few months later, that relationship goes sour. They never got married. They never committed to one another. He leaves the house. And sometime later, she meets somebody new, marries him, and they form a new household together. This new husband, this new spouse who has committed to the child, lives in the same house, I'm sure is developing a parent-child relationship with this child now, has no ability to be a stepparent in the eyes of the law to that child, regardless of the fact that he's made a commitment to the mother and to the child and is living in the same house, unless the ex-boyfriend, who's now a stranger to the household and the marriage, consents. And, and if he doesn't, then you've got a lengthy court

battle that has to take place. Giving somebody who's outside the marriage relationship that kind of leverage over the marriage, over the relationship, over the child at the center is scary. And that's why we're opposed to LB70.

**BOSN:** Any other questions? Senator Rountree.

**ROUNTREE:** Yes, sir. I appreciate your testimony. Appreciate your example. But in the example you gave, if the mother marries someone else and the boyfriend is estranged, that person or the man, he would still be a stepparent wouldn't he? He might not be able to adopt, but he would still occupy the position of a stepparent.

**MARION MINER:** Sure. He can still, he can still provide love and affection and support for the family and child, which you would have the duty to do. And I, and I hope you would. But you've entered into this realm now, though, where somebody who's outside the marriage relationship and outside the household has the legal rights, and this person does not. Thank you.

**ROUNTREE:** Thank you, Chair.

**BOSN:** Senator Storer.

**STORER:** No, go ahead. I think Senator McKinney was first.

**BOSN:** OK. Senator McKinney and then Senator Storer. Sorry. I didn't know if you still had a question.

**McKINNEY:** Thank you, Chair Bosn. Have you been here for the whole hearing?

**MARION MINER:** Yes.

**McKINNEY:** OK. So you've heard the uniqueness of situations that were described in the testimony. So your, your examples-- I don't even know how to say it. But I guess what I'm trying to say is society has changed, and, and, and there's different families today than there was 60 years ago. The households are different. And I, I think our law should reflect that, for one. Two, everybody's not getting married. And statistically, it's impossible. Honestly, it's impossible for every human on the face of earth to get married. It's just impossible.

**MARION MINER:** Mm-hmm.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

**McKINNEY:** It, it, it just is, whether we want to argue about or not, numbers wise, it's impossible. So I think we should craft our laws with that reality.

**MARION MINER:** So the way I would respond to that is in 2 ways. One is to say that one of the most important things that our law does is try to understand, try to advocate for what is truly in the best interests of the child and the, and the family unit. By the way, I know-- I've talked to a few of you who have said you've gotten a lot of emails. Senator DeBoer, I think, has mentioned that, too. We-- that's not us. We haven't activated any advocacy groups. So whatever you're hearing from them is, is not what we're asking them to say. We, we haven't asked anyone to email the committee-- but what's in the best interests of the child. And then, the other thing I would say is although, of course, the world has changed and is always changing, one thing that remains pretty constant, even though we have the widely talked about sort of decline in marriage culture in many ways, it is still-- and this is a footnote in my testimony-- it is still the case that as a very reliable indicator of stability is, is marriage. And since they started taking these statistics in 1970, what I footnoted here is that there was a 2020 study done that has-- that showed that in 2020, the median length of marriage in, in U.S. marriages was 20 years, which was the longest median that had been recorded since 1970, in 50 years. So my point being, the world is not a perfect place. Marriages are not perfect. Family relationships are not perfect. But marriage is still a very reliable indicator of family stability.

**McKINNEY:** That may be neither here or there, but I think we shouldn't just base our laws around hoping people get married. We should base our laws around the reality of it's just not-- it's impossible for everybody to get married.

**MARION MINER:** And again, my response to that is going to be it's, it's certainly, it's certainly good for policymakers to understand the reality of the world that we're looking at in real terms. The question is then, what policies ought you adopt to respond to it? And I don't think this is the right way to respond.

**McKINNEY:** That's your opinion, but thank you.

**MARION MINER:** Thanks, Senator.

**BOSN:** Senator Storer.

**STORER:** Thank you, Chairman Bosman [SIC]. So I guess a couple of questions. One, the, the 2 examples that we've heard here today, what's unique about them is they both involve individuals who are biologically related to the child--

**MARION MINER:** Mm-hmm. Mm-hmm.

**STORER:** --which, which presents sort of, I think, even a whole separate category of specificity, if, if you will, and, and perhaps longevity in terms of a relationship, due to biological-- there just is a commitment to, to-- oftentimes, to that biological child or niece or nephew. That being said, I want to go back to Senator DeBoer's example of, you know, in, in the event of a, of a niece or a nephew, and, you know, mom maybe isn't-- has been a stay-at-home mom, and dad was the provider. Dad, God forbid, you know, is deceased, and, and there's just a desire to help provide for those children financially.

**MARION MINER:** Mm-hmm.

**STORER:** That-- in that scenario-- let's just play that out. So you-- this-- let's say this passes in its current form, and, and that is accomplished. Under this bill, that could be accomplished. But, but if you keep playing that out, because, because there's no-- and I think what is unique-- and I'm going to put it in a different format in terms of marriage. What's unique there is 2 people have made a legal contract of commitment to each other.

**MARION MINER:** Mm-hmm.

**STORER:** So they have, they have sort of declared legally, a commitment. Right? That doesn't-- that can be undone, certainly, but, but it is at least an established commitment of longevity. This does not require that. And so in the case-- and I'm not-- we'll just-- it-- not necessarily with Senator DeBoer, but that scenario.

**MARION MINER:** Right.

**STORER:** That, that mom would-- biological mom would then go ahead and, and marry someone, and maybe Senator DeBoer and her sister had a falling out.

**MARION MINER:** Mm-hmm.

**STORER:** Just-- not to pick on your example. But it happens in families. And things can become really messy. Well, then Senator DeBoer could choose to take those children off of her health

insurance. Mom, biological mom, could still want to be a stay-at-home mom, and new husband can't provide for them. Right? This is a scenario that could happen, we would agree?

**MARION MINER:** I think I follow. Yeah.

**STORER:** So I'm just trying to play through the scenarios in my mind of some unforeseen consequences that could happen as a result of this, something that we're trying to help fix, that I think genuinely is trying to be addressed in this situation but could even further put the child at harm--

**MARION MINER:** Right. That--

**STORER:** --unintentionally.

**MARION MINER:** And, and that's-- yeah. That's, that's the core of our objection to it is that we all know that family life is not perfect, that things can happen. And so there's this-- the, the door to a child being hurt because of the shattering of adult relationships is always open a crack, just because human beings are human beings. It's one thing to acknowledge that as a reality, and it's another thing to kick the door open, which is definitely not the intention of this bill, but I think a, a consequence of it.

**STORER:** Is there any room-- and, and maybe this is a question for Senator DeBoer later, but, you know, is there any room to just consider keeping this narrowed to biological? I mean, both of the examples we've heard today, here, were biological parents, bio-- biological-- biologically related individuals that want to be able to be involved or care for those, those children.

**MARION MINER:** Yeah. Yeah. Now, I want to say and it's, it's possible that I don't remember the details of this correctly, but Senator McDonnell a few years ago brought a bill that would allow for legal declarations of maternity. So we've always had this, you know, ability for the father. It's always presumed, right, that the woman who gives birth is the mother. But that's not always the case, given, given technology that we have today. So Senator McDonnell brought a bill that would allow for an acknowledgment of maternity so that the biological mother, who in fact did not carry the, the child to term, can be acknowledged on the birth certificate and recognized as the biological mother. That's a, a bill that we didn't oppose because that seems just. Right? These are, these are people who have a biological connection to one another. The child has a right to a rela-- or a

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

legal relationship with, with their biological mother. So that particular-- you know, the, the legal unification of the child with the biological parent is not something we have any objection to. In fact, that is something to be-- that's, that's something we want to happen if we can make it happen. What Senator DeBoer and the Conference have not been able to do over the last few years, as we've talked this through, is to figure out the mechanism in this circumstance, you know, beyond the hospital room, which Senator McDonnell's bill addresses, how we make that happen without some pretty-- possible severe, unintended consequences. I hope that's helpful.

**STORER:** Thank you.

**BOSN:** Now I have a question. So our previous testifier-- we have 2 Jorgensens here, so I'm going to refer to you by your first name. Shilo testified, she is the biological parent--

**MARION MINER:** Right.

**BOSN:** --of Landon.

**MARION MINER:** Right.

**BOSN:** Although she did not carry Landon in her womb.

**SHILO JORGENSEN:** Correct.

**BOSN:** So if McDonnell's bill is the law--

**MARION MINER:** Mm-hmm.

**BOSN:** --she should be able to legally be recognized as the parent.

**MARION MINER:** I think so, so long as-- I don't remember if there is a time limit on when that acknowledgment of maternity after delivery can take place. I don't know the answer to that question, but that's, that's what pops into my head as a possible additional hurdle.

**BOSN:** OK. Well, I look forward to having a conversation after we're done and learning about that. Thank you.

**MARION MINER:** Yeah.

**BOSN:** OK. In light of that, any other questions? OK. Thank you for being here. Next opponent.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

**MARION MINER:** You're welcome. Thank you.

**BOSN:** Senator DeBoer to clo-- oh, neutral testifiers. Sorry. Senator DeBoer, to close. And while she's coming up, I would note for the record, there are 10 proponent comments submitted, 32 opponent comments submitted, and 1 neutral comment submitted. Thank you.

**DeBOER:** Thank you, everyone, for staying and listening to this hearing this evening. A couple of things I want to say, and then we can talk about it more as we're going along. Obviously, if there's a way to fix this that I haven't thought of yet, I am happy to take that way. I will say this is a more widespread problem than you would think. The very last door I knocked in my reelect campaign, the woman said, well, I've already voted, but let me tell you about this problem I have. And it was this exact problem. And I was sort of stunned by that. And I said, well, I have a bill for that. That's also true. And before Landon was here testifying, it was another child who came-- actually two. And in that scenario, both mothers had carried one of the two siblings. And so, in that scenario, they each were a parent of one. And these were the siblings. They were now split up. The siblings would go together from house to house, but only one of the how--kids was-- parent legally to each of the children. So there are other scenarios that I'm aware of, where there's no biological relationship between the nonlegal parent, but they are still the parent. So I don't know-- I would, I would take fixing it just for the biological parent because I've been working so hard to try and find a solution to this problem. I mean, the reality is that our work here and the law has separated a family, because it will not legally recognize what is very clearly a parent-child relationship, what is very clearly a parent and their child. And that, to me, seems like an injustice. So if we can figure out how to get these parents and their children to be able to be legally reunited, I'm happy to listen to any possibility that would allow them to be legally reunited. So I will work with you on this. I have a lot of things to say, but it's late, so I'm not going to, and I'm happy to tell you individually.

**BOSN:** Thank you. Any questions? Senator McKinney.

**McKINNEY:** Thank you. And thank you, Senator DeBoer. Somebody texted me this just for a point of clarification. Let's say I was in a relationship with somebody, we had a kid, and we broke up. And I get married, and let's say my wife wants to become the second parent. My ex-- because my ex is still my child's life-- that wouldn't override the, the other parent, right? OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

**DeBOER:** No-- the reason--

**McKINNEY:** Just double checking.

**DeBOER:** Because you can only have, again--

**McKINNEY:** Right.

**DeBOER:** --two parents, one parent--

**McKINNEY:** OK.

**DeBOER:** --or zero parents.

**McKINNEY:** All right.

**DeBOER:** And another quirk of the law--

**McKINNEY:** That's what I thought.

**DeBOER:** --is that if you're married, you can only adopt a kid if your spouse is also adopting the kid.

**McKINNEY:** OK.

**DeBOER:** So Senator Bosn and her husband, her husband could not adopt a child unless she also adopted the child.

**McKINNEY:** All right.

**DeBOER:** So--

**McKINNEY:** I would just double check-- I, I-- that's what I thought. I was just double checking.

**DeBOER:** Yes.

**McKINNEY:** Thank you.

**BOSN:** Any other questions? Thank you for being here. And don't go far. That concludes our hearing on LB70. Now, we will begin LB65, Senator DeBoer.

**DeBOER:** And now for something completely different. Good afternoon, Chair Bosn and member-- good evening, Chair Bosn and members of the Judiciary Committee. My name is Wendy DeBoer, W-e-n-d-y D-e-B-o-e-r, and I represent District 10 in northwest Omaha. I am here today to

introduce LB65. As the committee is aware, we often hear a variety of bills addressing court fees and court costs. I do a lot of court fee bills. Court fees as opposed to fines are collected by litigants and are used to fund a number of-- are collected from litigants and are used to fund a number of programs, include-- including the judges' retirement program, legal aid funding, a court computer system. There's a variety of purposes. It's actually a very long list. LB65 would provide that court fees, probation fees, drug-testing costs or other incidental fees assessed to people who are charged in the court system will not be assessed against juveniles or their families for juvenile actions. Many of Nebraska's families who are impacted by the juvenile court system are also impacted by court-imposed costs. A disproportionate percentage of youth and families in the juvenile court system are low-income, for whom the fees and court costs impact is more profound. Additionally, as you will hear, there's a great variance amongst Nebraska counties on how courts are imposing fees. Some counties impose fees for drug testing or fees for-- fees for performance of community service. Some counties charge for youth to participate in diversion programs, among other costs. Overall, the costs weigh heaviest on rural Nebraska youth. Small counties like Scotts Bluff County, Dodge County, and Adams County assess significantly more fees than the state's largest counties. There's an argument that payments of costs is an expected consideration of rehabilitation, that a person should figuratively and literally pay their debt back to society. But be-- but fees can be an obstacle to rehabilitation by preventing a court from sealing a juvenile's court record upon completion of probation, that youth-- if that youth owes court costs. Additionally, at least one recent study revealed that court costs can exacerbate recidivism. I also want to point out that I'm just talking about juveniles. So if your parents can't pay and you're a juvenile, you're holding the juvenile responsible for things that-- maybe they're not even old enough to work. States across the country have moved to either completely eliminate or substantially decrease court costs for youth, youth. Some of those states are Maryland, Montana, Oklahoma, Utah, Virginia, among others. Our justice system, particularly our juvenile justice system, should operate to promote safety, rehabilitation, and meaningful accountability without regard to an individual or family's wealth or lack thereof. Frequently, families coming into contact with our juvenile justice system are already struggling to get by. LB1089 [SIC] would ensure that court fees and ancillary costs do not operate as a barrier to youths being rehabilitated and moving forward with their life. There will be testifiers who follow me, who will have detailed data regarding juvenile court fees in Nebraska and related matters. I urge

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

the committee to listen to the testimony regarding the bill, and I will answer any questions that you have.

**BOSN:** Any questions? Thank you. First proponent. Good aft-- or evening. Thank you.

**KATIE NUNGESSER:** Good evening. Long evening for you guys. Thank you, Chairperson Bosn and members of the Judiciary Committee. My name is Katie Nungesser, spelled K-a-t-i-e N-u-n-g-e-s-s-e-r. I'm representing Voices for Children in Nebraska in support of LB65. LB65 speaks to an urgent matter that touches the very core of justice and fairness within our state that impacts some of the most important Nebraskans, youth. In this state, we strive to uphold the values of a justice system that aims to be blind to wealth, race or social class. However, our youth justice system is currently tarnished by discriminatory and harm-- the discriminatory and harmful practice of court debt, particularly court costs imposed on system-involved youth and their families. I want us to be on the same page about exactly what we're talking about. Court costs, like Senator DeBoer said, are broken down into fines, fees, and restitution. Court fees are basically user fees. They're flat fees that are charged by the court, and they have no relation to the crime, the victims, or the harm done. This is the largest category of concern in LB65. Fines, on the other hand, are penalties for crimes, sometimes in the place of detention time or other consequences. LB65 explicitly excludes restitution, which is a court-imposed cost upon a youth to compensate the victim of their crime. In this way, LB65 ensures that the only cost used-- youth have attached to their cases will be those costs that hold them accountable. Instead of funding judges' retirement funds, court automation, and other funds, youth will be enabled to pay their restitution. And that is the only cost that's actually related to the impact of their crime. Voices started working closely on this issue in 2002-- 2022, when we had community members and youth coming to us, saying they were having issues with probation and not being able to afford their court costs. A major concern for us was that youth were unsuccessfully completing probation and not having their juvenile cases automatically sealed due to this inability to pay court costs. I met in-depth with more-- in-depth with more than a dozen Nebraska youth impacted by this issue. Here in Nebraska, the numbers speak volumes. Over \$760,000 in fines, fees, and restitution were imposed on youth in-- from 2019 to 2022. These may not sound like big amounts in the state budget, but they're a significant impact on individuals and families. What makes this practice more concerning is it's not equally distributed. Like she had said, you're nine times more likely in some counties to be assigned those costs than you are in the bigger

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

counties, and a child's location should not determine that. The separate juvenile court judges in Nebraska are not usually assigning these fees. It's the smaller courts, and they are not doing a pay analysis or considering the ability to pay of the juvenile. LB65 is a sound policy for Nebraska that would make a meaningful difference for families in lower income brackets without significantly impacting our state and county bottom lines. So we would like to thank Vice Chair DeBoer for continuing to lift up this issue and for bringing LB65. We urge the committee to support it. The time is now to eliminate, eliminate administrative fines and fees in Nebraska's juvenile court system, ensuring that Nebraska's justice does not work for some, it works for everyone. Thank you for your time, and I'm open for any questions.

**BOSN:** Any questions? Senator Hallstrom.

**HALLSTROM:** Do you have any data on what percentage of the total cases statewide are juvenile cases?

**KATIE NUNGESSER:** I don't. I have some experts coming up after me. I was really involved in the narrative piece, working with the youth-- and so we'll have some answers. And there's some county-by-county data for your districts-- hopefully, you all got the right stuff-- that breaks down a little bit about your district.

**BOSN:** Thank you.

**KATIE NUNGESSER:** Thanks.

**BOSN:** Next proponent. Good evening.

**RAYMOND DURHAM:** Good evening. Thank you, Senators, for your time and consideration of the important issues addressed by LB65. My name is Raymond Durham, R-a-y-m-o-n-d D-u-r-h-a-m. I'm a staff attorney representing the National Center for Youth Law, aka NCYL, a national, nonpartisan advocacy organization that centers youth and their voices. For over a decade, NCYL has worked with various communities across the country to learn about the impact of court-imposed costs on youth and their families. In collaboration with partners on the ground, what we have found is that regardless of the state or community, the impact of court costs on youth and families is consistent. They lead to more youth involvement in the court systems, they inhibit a youth's rehabilitation back into the community, they disproportionately harm poor and under-resourced communities, and they create distrust in our legal systems. A recent study, as Senator DeBoer mentioned, confirms

the negative impact of these costs, finding that youth with court-imposed fees are 23% more likely to recidivate. Based on this information and data, other national organizations with expertise in administration of legal and court systems across the political spectrum have joined the call to end the assessment of juvenile court fees. Organizations like the National Council of Juvenile and Family Court Judges, the American Bar Association, and the Conferences of Chief, Chief Justices and State Court Administrators have published resolutions, recommendations, and guidelines to encourage state legislatures to end the assessment of juvenile court costs. Indeed, the American Legislative Exchange Council has published model policy to eliminate these costs, finding that they can cost taxpayers money rather than raise revenue for the systems. In LB65, Nebraska's legislature-- Legislature had the chance to implement commonsense legislation other states have already enacted. This is not a partisan issue. Rather, the states eliminated-- eliminating court costs have done so for similar reasons. Assessing court costs to youth are ineffective and unreliable ways to build and maintain revenue for important government systems. When a state funds, for instance, a judge's-- judges' retirement fund, a court operating system, or a legal aid fund by collecting these costs against poor youth and families involved in the juvenile court process, they inevitably are creating an unstable and unpredictable budgetary system. In any given year, the revenue is dependent upon how many youth actually end up in the system, and out of those youth, how many are actually able to pay. And study after study has found that the cost to collect court fines and fees often outweighs the revenue that they bring in. LB65 explicitly acknowledges that a child's future should not be dependent on court debt and that relying on court costs as revenue generators is irresponsible fiscal policy. A family should not have to choose between paying for court debt or paying for rent or groceries, and the government should not be expecting those families to provide the revenue for funds that everyone benefits from. Nebraska should change the lives of thousands of youth and families by enacting LB65. I thank you for your time, and I welcome any questions you might have.

**BOSN:** Thank you. Any questions? Thank you for being here. Next proponent. Good evening. Thanks for coming.

**ERSKINE GIPSON:** Thank you for allowing me. My name is Erskine Gipson, spelled E-r-s-k-i-n-e, last name G-i-p-s-o-n. I'm here today to support LB65 because of my personal experience that I have with court costs and how they hurt young people and their families. And I'm proudly from New Orleans. I came here when Katrina hit, and me and my family had lost everything. We moved here. So, you know, we moved with

our family. And we was hard finding stable housing, and we lived with our-- my cousins and everything, for-- on couches. And I was a smart, respectful young kid. But I grew up struggling in school, not because I, I couldn't handle the academics. It just was sitting in classrooms-- just, you know, just-- the environment I was in. I didn't really get the-- have the right transportation of going to school. I was always mostly used to public buses. And in my environment, sometimes those public buses were unsafe. While on probation, I was required to go to therapy and other programs. These programs cost money, sometimes for scaling fees or co-pays. Sometimes my family couldn't afford them. The adults in my, in my life always didn't have the resources or time to handle the paperwork or barriers to help me comply. Even though sometimes, I stopped going to school, not because I didn't want to but because there was a-- we couldn't afford me going or to get me there. This had led me to several truancy cases from RO-- YRTC to D-- DCYC. What helped me was not being punished, it was the family members who took me out of Nebraska for 6 months. They gave me mentorship and stability and I was able to turn my life around. When I came back, I finished high school, and I'm a-- I work as a subcontractor in Omaha to support my kids. Court costs and other, and other fees were a huge barrier for me. If the family and I resources had-- had the resources that others did, I couldn't have gotten the help that I needed without being sent away. I wouldn't have been able to leave my, my siblings or go through the trauma of incarceration. Families living in poverty already struggle to pay for basic needs like food and transportation. Adding these court costs can only force them to make tough decisions. This can make it harder for kids to succeed. I take responsibility for my actions, but now I see that young Erksine didn't ask for the challenge he's, he's facing. Looking back, I realize that our system doesn't always do what's best for kids. Instead of focusing on what's helping us grow, it often makes things worse. In my situation, it feels like the adults assigned to support me, rehab-- rehab-- rehabilitate me and develop me [INAUDIBLE] the efforts for punishing me. Looking back, what really works for kids like me are things like mentorship, job training, meeting kids where they are, and food programs, and address poverty. Please pass LB65 so that kids don't have to face extra barriers because their families can't afford extra court costs. Let's give Nebraska's youth a chance to succeed. Thank you for your time. I'm open to any questions.

**BOSN:** Thank you very much. I-- just really quick, I didn't hear your spelling of your last name. Could you do it one more--

**ERSKINE GIPSON:** Gipson, G-i-p-s-o-n.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

**BOSN:** OK. Any questions? Thank you for being here, and thanks for sharing your story.

**ERSKINE GIPSON:** All right. Thank you.

**BOSN:** Next proponent. Good after-- evening. Thanks for being here.

**SHELBY WOLF:** Good evening. Hello. Good evening, Madam Chair Bosn and members of the Judiciary Committee. My name is Shelby Wolf, S-h-e-l-b-y W-o-l-f, and I am here personally to express my support for LB65. As a young adult navigator in Omaha, I am a frontline worker with youth age 14-26 who are considered unconnected. This includes individuals who are pregnant or parenting, dealing with homelessness and housing instability, or have systems involvement. My professional role is to walk aside-- alongside them, as they navigate between systems and prepare to transition into adulthood. This line of work has given me a firsthand look at how involvement in the juvenile court system can perpetuate harm on young people and their families. A common thing among the people I support is a story of survival as they fall victim to under-resourced communities, unsafe environments, and lack of support. One individual entered the juvenile court system after stealing food and hygiene items from her local grocery store. Another was charged with truancy because in order to keep their younger siblings safe, they were escorting them to elementary school before going to high school themselves, all by city bus. Now, these individuals struggle with their transition to independence as their ability to find or maintain employment and housing is hindered by their legal record. Decisions that they had to make to survive before their brains could comprehend long-term implications now follow them and impact the trajectory of their adult lives. Restitution can still happen without imposing additional cost burdens on youth and families who are already susceptible to economic hardship. One of the reasons I do this work is because I personally can relate to the ramifications juvenile court fees and fines can have on a family. At the age of 13, I also became involved in Nebraska's juvenile court system while simultaneously living in poverty. After being placed on diversion, I was assessed court fees and fines nearing \$200, not including the additional requirements I had to complete. The financial impact on my family was immense. Because I was too young to get a job to pay the fees myself, the responsibility fell on my parents, which resulted in my dad having to pick up extra work and be out of the house even more than he had to be. The stories I share today depict the harsh reality that systems-involved youth continue to face every day, but that doesn't need to be our future. LB65 provides a monumental chance to positively impact outcomes for one of our most vulnerable populations.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

I urge you to join Senators DeBoer, Conrad, and Dungan in supporting this opportunity to spare youth and their families further financial damage from fees in Nebraska's court-- juvenile court system. Thank you. Any questions?

**BOSN:** Thank you. Any questions for our testifier? Thank you for being here. Next proponent.

**TINA ROCKENBACH:** Good evening.

**BOSN:** Good evening.

**TINA ROCKENBACH:** Good evening, Chairman Bosn and members of the Judiciary committee. My name is Tina Rockenbach, T-i-n-a R-o-c-k-e-n-b-a-c-h, and I'm the executive director for Community Action of Nebraska. We are the statewide member association representing all 9 of Nebraska's community action agencies, and I'm here today to testify in support of Senator DeBoer's LB65. Our agencies serve all 93 counties working to remove barriers, provide communities with innovative solutions, and support individuals and families who are experiencing economic instability. When we work with families and individuals to help them set goals and work through our process, work to help remove barriers to allow them to achieve their goals and outcomes that we have set through their case management process. These high court fees can have a devastating impact on families just trying to make ends meet in our most rural communities. When families can't pay, their child can be put into the probation longer, their involvement in the system is prolonged, and as pointed out by those with experience, it leads to feelings of being stuck in a cycle that is not considerate of their situation. The data within our network continues to show that economic challenges causing families and individuals to experience poverty are becoming much larger in the rural sector of our state. This can be attributed to many factors, but with respect to LB65, we see inconsistencies and disproportionalities in the assessment of court costs to juveniles across the state, and especially in the rural sector. I've had discussions with many of you and your colleagues, and often the first question that comes up is about fiscal impact to the state. Senators are worried that this bill would take resources out of counties at a time when we are in a budget deficit. So I've done a little bit of a favor here and I have emailed all of you, while you've been sitting here, the copy of the report that our coalition received from the Nebraska Supreme Court data, showing the 4-year period from 2019 to 2022, costs assessed and collected by counties across Nebraska. Just a quick glance at this data will show you the large discrepancy between the fiscal note

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

attached to this bill and the real numbers received via this report. Speaking directly to the fiscal note-- and identify the vague language and the discrepancy, especially somebody like me that looks at-- who is not involved in the legal system-- looks to be inaccurate or at least inconsistent. As you can see, from 2019-2022 in the report, the court fees assessed by counties totaled \$330,000, and out of that, only \$271,000 was actually paid. That's an average of about \$67,750 per year. What this means is that while the fiscal note claims a potential loss of \$1 million per year, the real numbers show, from the data from the Supreme Court, that implementation of LB65 would be only about 6% of that. A slight step further as you look at that, within that \$270,000 paid, only approximately \$25,000 or 9% over a 4-year period were from separate juvenile courts in Douglas, Lancaster, and Sarpy Counties, who see the largest numbers of juvenile cases over the years across the state. You can also see from approximately that 80-- or excuse me, 90% of these court cases are charged to youth and their families in the more rural counties in Nebraska. Overall, looking at the fiscal note, the best is an approximation. Our biggest concern as a network is that we are opening this discussion and we are looking to a positive solution that's going to be positive for the county, the state, and of course, the impact on the youth and families economically. I'm happy to try to answer any questions that you might have.

**BOSN:** Thank you very much for being here and waiting so long. Any questions?

**SHELBY WOLF:** Of course. Sorry I didn't bring pizza.

**BOSN:** That's OK.

**HOLDCROFT:** The chairman is on [INAUDIBLE].

**BOSN:** I still recall the number of questions that I've asked today. OK. Any questions for this testifier? Thank you very much for being here. Next proponent.

**NATURE VILLEGAS:** Good evening. Long time no see. I'm a little less stressed.

**BOSN:** Welcome back. Thanks for being here.

**NATURE VILLEGAS:** Pulled it together. My name is Nature Villegas, N-a-t-u-r-e V-i-l-l-e-g-a-s. I spoke before about more restorative approaches. And I think what our state and what many look for in consequences is accountability. Right. And I totally agree on that. As

a restorative justice facilitator and creator here in the state of Nebraska, that is a huge factor in, in the process. You have to be accountable, right, to the harms you've done, also to the trauma you went through, because it's not our fault as kids what we go through but it is our responsibility to heal from that in order to not bleed on our community. Unfortunately, as we know, our brain to what we know isn't even developed to forward thinking like that until 25. So to even have a mentality of placing an amount as the accountability factor on, I would say a mass majority of these youth, from my experience of myself into now the field of working, we're talking about punitive measures against poverty. So even if I wanted to pay that \$500, it doesn't mean my family has it, and it doesn't mean my 14-year-old self or 17-year-old self could even go get that. So then, I think it puts our community in a very unsafe position. Because now, my non-forward thinking, right-- I'm not thinking of the harm I'm going to cause, but I got to go get that money because if I don't do that, I'm going to go to jail. And then this, and this, and this. And my single mom is already doing 3 jobs. And, and it goes on and on and on. So I think perspective is, is really at play here because we're all looking through a different telescope. So if we continue to be punitive against poverty, we're going to continue this, this horrible outcome. The restorative approach is, in that restitution area, when you take those-- restitution is where that restorative approach and that accountability can come in. The kids are going to have trauma-informed care, that mentorship. This young Mr. Gibson-- Gipson expressed how much that changed his life in 6 months, to just have to slow down and focus on how he got in those situations, right, not just the poverty or decisions, things like that, being able to see life through a different eye than a poverty eye. Our children, myself included, haven't seen parts of the world that other people have seen that are charging these fees. Again, it doesn't take away the accountability of the restitution part. That's where we get to sit and be accountable and go over victim impact, the emotional intellect of it, the harms we've caused, that, that domino effect that we find out. It's-- we don't know the last victim of our list. We may never know all our victims. Right. I think it's really selfish for the victims as well. Because I, personally, have been through things. And I would like to know that the person that killed my daughter's father is actually being able to get to the core of why he did that, and we can bring change and healing instead of just throwing someone away. Right. I would rather know that that person's not going to go do that again. But we can't do that, just charging someone money-- and you didn't pay it. I have youth now that have this problem. And they're terrified, because they've changed their life around, they've done a 180. And

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

now, they might have to stay on probation because they can't afford to pay their fees.

**BOSN:** Thank you for being here. Any questions for this-- thank you.

**STORM:** I got a question. I got to ask one question here. Thank you, Chairman. So what about instead of paying fees, why not community service? What do we think about that?

**NATURE VILLEGAS:** So that would be a restorative approach, and even that would have to be discussed on-- sometimes with community service, you've heard people testify on transportation issues and things like that. So it would be very mindful on basic life skills, on even something in that manner, which, absolutely. The youth and I go out into the community. We've been doing that. Now, they feel a part of their community differently because they're sitting in spaces like this to see how it happens, right? But community service is beautiful in a restorative approach because they get to go out and not only be a part of their community, which brings purpose, right, and hope, and they become a part of the community. And now, they no longer want to harm that community because they got to put in on that. And then they get that accountability piece, where they get to say, you know what? I hurt my community when I did that. It starts putting those pieces together. But even when we say community service, we have to be mindful of the community we're talking about, to make sure that we're not saying, well, you didn't make it to community service, you're going back to jail. Because we have that issue, too. But I'm not going to repeat all the barriers that you've heard. But there's a lot of things beyond just transportation but life itself. But yeah, absolutely. When you incorporate accountability and you put that purpose--

**STORM:** Right.

**NATURE VILLEGAS:** --and that hope, those are your 3 ingredients for successful people.

**STORM:** So there has to be a penalty, in my opinion. So if there's no money, there has to be service. And I have 6 children, so I can't go to my child and say, give me money for doing this. They do a service, so--

**NATURE VILLEGAS:** Absolutely.

**STORM:** But there has to be some type of penalty for doing something wrong.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

**NATURE VILLEGAS:** I agree with penalty. I just think we should be a more restorative, repairing, healing penalty, where all 3 stakeholders: victim, justice involved, and community. Right. And I agree.

**STORM:** Like community service.

**NATURE VILLEGAS:** As a parent, I, too-- when you have to go out there and clean up that mess--

**STORM:** Yeah.

**NATURE VILLEGAS:** --versus me going out--

**STORM:** Sure.

**NATURE VILLEGAS:** --you're cleaning that, like, oh, my God, I'm never going to make this mess again. Or if I do, I'm going to do it a little different so when I clean it up, I don't have to take so long. So I definitely agree that there has to be that connection. But my, my point being is making it a money factor, that connections is never going to be made. Because you can ask a lot of the youth that I work with. A question was asked the other night, if you were given \$1 million right now, what would you do with it? Well, you're talking to people that are wondering if they're going to eat tonight. Right.

**STORM:** Sure.

**NATURE VILLEGAS:** So I'm not disagreeing with you at all. It's just about being mindful of the communities we're talking about and how to make it accessible in a way that it's restorative and not just that punitive, you know what I'm saying?

**STORM:** Yep.

**NATURE VILLEGAS:** All right.

**STORM:** All right. Thank you.

**NATURE VILLEGAS:** Yes.

**BOSN:** Any other questions?

**STORM:** Thank you.

**BOSN:** Thank you for being here.

**NATURE VILLEGAS:** Thank you, everyone. Thanks.

**BOSN:** Next proponent. Opponents.. Anyone wishing to testify against the bill? Good evening.

**ROBERT KLOTZ:** Good evening. I haven't heard any stomach grumble yet. My name is Robert Klotz, K-l-o-t-z. It's hard to teach children responsibility. It'd be great if we could do it by the age they start walking, but that's not going to happen. It usually takes by the time they're 19 years old to learn responsibility. I can understand not having to pay for parents or the children to pay for the coffee for the, for the judges or whatever, for all those kind of things-- or their computers. I can understand that. But when it comes to a penalty, one young lady said she had \$200. This goes back to responsibility. Now OK, you, you can't pay it as a youth. All right. But when you get old enough to work at Wal-Mart and you start taking \$10 out of that, whatever, it reminds you, you have to be responsible. You don't get away just because you're, you're young or you're whatever. Furthermore, the bill talks on, I think, on page 3, about 19-year-olds, if they were charged with something when they were a youth. Why would they get, get a pass? They're adults. They should be responsible and be able to pay any penalties that they incurred when they were younger. If you don't teach people to be responsible, they won't be responsible. And as a society, we need to teach everybody to be, be responsible. And if you legislate they don't have to be responsible, they're not going to be responsible. That's all I've got to say. Under 2 minutes.

**BOSN:** Thank you. Any questions for this testifier? Thank you for being here. Any other opponent testimony? Neutral testifiers? And while Senator DeBoer is making her way up, I will note for the record that there were 12 proponent comments submitted, 2 opponent comments, and no neutral comments.

**DeBOER:** Thank you. Thank you all for staying here so late on a Friday night. I want to clarify one thing that I clearly did not make clear, and I really should have, that the-- this is just for fees, not for fines. So fines are the penalty part. So the penalty part, the fines part, is still being assessed. This is just the fees part. So those are different sort of things. The other thing I wanted to point out is that the community service point that, that Senator Storm made, there literally are counties where the juvenile is charged fees for doing the community service. So they can't afford to do the community service because there's fees to do the community service. So it seems to me at the very least we should say you can't charge fees for doing

the community service that we're-- To Senator Hallstrom's question, you asked-- we did some back of the envelope math. Brian here, did some back of the envelope math for me on the percentage of cases across the state that are juvenile cases. 1.6% is our back of the envelope math, but we'll, we'll work some more and get you a, a more, you know, worthy number there. Yeah, I don't want to keep us any later, but I did want to answer those questions and be available to answer any other questions that you may have.

**BOSN:** Senator Holdcroft.

**HOLDCROFT:** Thank you, Chairwoman Bosn. So the fees don't go away, right? I mean, they're still there. They still-- someone's going to have to cover the fees and it's probably going to be the county. Correct?

**DeBOER:** So, yeah-- I mean--

**HOLDCROFT:** Is that right?

**DeBOER:** I mean, if there is a-- if the thing that there is a fee for represents a cost that is for whatever the, the action is, right?

**HOLDCROFT:** Correct.

**DeBOER:** I mean, like we still have to pay for the judge's retirement fee.

**HOLDCROFT:** Right. So I think the fiscal note estimated that at \$1 million, which, which I mean, there is some counter to that, saying that it's probably not that much, but still, it's an unfunded mandate to the county.

**DeBOER:** So we know for sure it's not-- well, I'm pretty darn sure it's not going to be anything like that because of the amount that has been collected in juvenile court fees in the past however many years. You heard the, the testifier who said, you know, it's like \$65,000 a year is what they actually collect in that, or-- and so \$1 million a year seems to be quite disparate from \$65,000 a year.

**HOLDCROFT:** Well, I think it would be good to hear from the counties and what they think about this, this project and how much, how much [INAUDIBLE].

**DeBOER:** And Senator Holdcroft, it will very much depend by county. That's the other thing, that, that it depends on the county, how much

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

they're charging, how many times their judges are waiving it. So, yeah.

**HOLDCROFT:** Thank you.

**DeBOER:** Mm-hmm.

**HALLSTROM:** One quick question. Senator, do you know if the court fees are established by state statute or if the counties are free to--

**DeBOER:** These are state-- state statute, for the--

**HALLSTROM:** So, so we will tell them they can't collect fees from the juveniles and then the counties will be at, at our mercy as to whether or not we would allow them to increase the fees if they needed to make up the difference. I can talk with--

**DeBOER:** Senator Hallstrom, I would suggest that you ask Spike Eickholt after this hearing what the answer to your question is.

**HALLSTROM:** Thank you.

**BOSN:** Senator McKinney.

**McKINNEY:** Thank you. What's the legal age to work in the state?

**DeBOER:** I think you can be 14 in some farm instances, but I don't know about that. 15--

**McKINNEY:** So, in theory--

**DeBOER:** --various instances, but 16 is the major age.

**McKINNEY:** So in theory, somebody could be not the age to work and be assessed fees.

**DeBOER:** I think we heard the example of that with the young woman who said she was 13.

**McKINNEY:** Yeah, it just doesn't make any sense to charge somebody some fees that can't actually go out and work. It's counterproductive for everybody.

**DeBOER:** I don't have a-- I mean, I didn't hear a question, so I don't know how to respond.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2025

**BOSN:** I, I think we'll-- if there are further questions, are you willing to have those conversations?

**DeBOER:** I am willing to have conversations with everyone.

**BOSN:** Thank you. That'll conclude LB65. And we are adjourned.