

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

BOSN: [MALFUNCTION] --Judiciary Committee. I am Senator Carolyn Bosn from Lincoln, representing the 25th Legislative District. I serve as chair of this committee. The committee will take up the bills in the order posted. This public hearing is 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 testifier sheets on the back table. Be sure to print clearly and fill it out completely. When it's your turn, give the testifier sheet to the page or the committee clerk. If you do not wish to testify but would like to indicate your position, there are yellow sign-in sheets on the back table that will be included as an exhibit in the official hearing record. When you come up to testify, please speak clearly into the mic telling us and spelling your first and last name. We will begin the hearing today with the introducer's opening statement, followed by proponents of the bill, then opponents, and finally, anyone wishing to speak in the neutral capacity. We will finish with the closing statement if so wished. We will be using a three minute light system for all testifiers. When you begin your testimony, the light on the table will be green. When the yellow light comes on. You have one minute remaining, and the red light indicates 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. This has nothing to do with the importance of the bill, just part of the process as senators have bills in other committees to introduce as well. A few final things. If you have handouts or copies, please bring up 12 copies and give them to the page. Please silence or turn off your cell phones. No verbal outbursts or applause are permitted and may be cause for you to be asked to leave the room. Finally, the committee procedures for all committees states 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. 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. 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.

HALLSTROM: Bob Hallstrom, State Senator, Legislative District 1 covering Otoe, Johnson, Nemaha, Pawnee, and Richardson Counties, southeast Nebraska.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

STORM: Good afternoon. Jared. Storm, District 23, which is Saunders, Colfax, Butler County.

STORER: Good afternoon. Tanya Storer, I represent District 43, Dodge, Sheridan, Cherry, Brown, Rock, Keya Paha, Boyd, Garfield, Loupe, Blaine, and Custer Counties.

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

ROUNTREE: Good afternoon. Victor Rountree, District 3, Bellevue and Papillion.

BOSN: Also assisting the committee today. To my left is our legal counsel, well, actually, both of our legal counsels will be here, Denny Vaggalis and Tim Young. To my far right is our committee clerk, Laurie Vollertsen. Our pages today are Ellie Locke, Alberto Donis, and Ayden Topping, all from UNL. With that, we will begin today's hearings with LB612 and Senator Andersen.

ANDERSEN: Good afternoon.

BOSN: Welcome.

ANDERSEN: Thank you, Chairman Bosn and members of the Judiciary Committee. For the record, my name is Senator Bob Anderson, B-o-b A-n-d-e-r-s-e-n. I represent Legislative District 49, northwest Sarpy County, Omaha, Nebraska. Excuse me. I'm here to introduce LB612, which was brought to me by the Sarpy County Board of Commissioners. LB612 amends Section 24-514, requiring the state to pay 50% of operational costs of the county courts. All across Nebraska, the county courts are a function of the state court system. The County Court cost currently represents an underfunded mandate to counties in Nebraska. Since 1993, the state agreed computer hardware and software, communication line costs, which is from data and word processing software, and recording it for county court proceedings, will be funded by the state under operational costs. To-- The state, taking over 50% of the county court costs, the state would move towards reducing the underfunded mandates by the state, which could allow the counties to reduce property taxes. Initially, Sarpy County Board of Commissioners asked the state to pay 100% of these court costs. However, due to the state's current and expected financial status, we agreed to introduce the bill at the 50% funding level. I want to thank the Nebraska State Court administrator, Corey Steel, Eric Asboe from the Supreme Court, and Dan Toleikis, the Sarpy County chief financial officer for their close collaboration on this bill. During our discussions, it was interesting to find out that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

many of Nebraska counties are billed for and pay different expenses related to county courts. This disparity and inconsistency has caused confusion and made generating the fiscal note very challenging and its precision questionable. In the short term, I believe we should strive to pay 50% of the operational court costs realized by the counties. Long term, the legislation should strive to fully fund these operational expenses. Dan Toleikis, the chief financial officer of Sarpy County, will testify after me and can provide further detail on the impact of underfunded court costs to the counties. As I mentioned above, there is disparity in the operational court costs paid by the counties and the state. We have an ongoing dialog with Sarpy County officials to come to a common understanding of what, of what are and what are not operational expenses for the county court system. The definition and clarity will be necessary to determine a realistic and accurate fiscal note. Until this determination is achieved, I recommend holding this bill in committee. Thank you all for your time and attention. I look forward to working with the Committee on LB612, and I'm happy to try and answer your questions. However, they may be best answered and addressed by Mr. Toleikis. Thank you.

BOSN: Thank you. Any questions for Senator Andersen? Seeing none. And I know you're also opening in another room, so you'll stay until you've got to go.

ANDERSEN: Absolutely.

BOSN: All right. Thanks.

ANDERSEN: If I have to leave, I'll waive closing.

BOSN: Sure. Thank you.

ANDERSEN: Thank you, Chairman.

BOSN: First proponent. Welcome.

DAN TOLEIKIS: Thank you. Good afternoon, Chairwoman Bosn and members of the Judiciary Committee. My name is Dan Toleikis, spelled D-a-n T-o-l-e-i-k-i-s, and I am the chief financial officer of Sarpy County. I am here to testify in support of LB612 on behalf of the Sarpy County Board of Commissioners. I also want to thank Senator Andersen and his staff for their work on LB612. Counties are currently tasked with funding county courts under section 24-514. Philosophically, we believe that as a function of the state court system, county courts should be funded at the state level. Passing on costs to the county increases property tax bills for taxpayers and creates confusion on

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

what, why, and how the courts should be funded. From the state's mandate to fund the operational costs of county courts that are not outlined in section 24-514, Sarpy County funds direct court costs, office supplies, courtroom and office furniture, contractual services such as armored car services and microfilm imaging services, printing and publications such as Lexis Nexis, dues and subscriptions such as Nebraska Court rules and procedures, witness fees and mileage reimbursement, costs of civil process collection which is mileage to the sheriff, and office equipment repairs. Over the last five years, these costs represent around an annual \$100,000 cost that is passed on to the county and the county taxpayers. As Senator Andersen mentioned in his opening statement, in recognition of the state's financial status, we have agreed to LB612's funding 50% of county court operational costs. The Sarpy County Board of Commissioners believes that this is a starting point for eliminating underfunded and unfunded mandates related to county court costs and broader discussions of eliminating underfunded and unfunded mandates. Over the past years, Legislatures have created an assortment of funding models, splitting costs or simply not funding services to be performed by the counties. Sarpy County believes that those who direct state personnel or primary state functions should ultimately be responsible for all costs, all costs involved with those services or functions. This allows for better fiscal management and program management with clear funding, funding and operational direction. Currently, we largely rely on property taxes and want to work with the Legislature to reduce property taxes where appropriate and will continue to work with the Legislature on opportunities that legislation such as LB612 could provide. We urge you to advance LB612 Thank you and I will try to answer any questions that this committee has.

BOSN: Any questions for this testifier. Senator Rountree.

ROUNTREE: Thank you, Chairman Bosn. Thank you, sir, for your testimony. I'm just looking at your statement as well as this handout that you gave us as to different colors. And I'm assuming that probably those in the red are deficits and so forth. I see Lexis Nexis here that has a high cost. Could you talk more about this particular spreadsheet for us?

DAN TOLEIKIS: I can, thank you for your question. So provided as an exhibit is a detailed history of the last five years of costs for Sarpy County for court costs. It also contains our fiscal year '25 budget amount. In my testimony earlier, I referenced different expenses that Sarpy County currently pays. This is that detailed version. As Senator Andersen noted, during some conversation regarding

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

LB612, we found that counties pay for different expenses related to court costs. The color coding that we attempted here is green costs are costs that we feel every county likely incurs. Red costs are costs that Sarpy County has elected to pay that probably not every county currently pays for. And then there are some, couple orange identifiers which relate to costs that are in, in question right now.

ROUNTREE: And these are the costs that we want to share the 50% with the state.

DAN TOLEIKIS: I think the testimony here is that the green costs are for sure costs that we would like to split 50%. I think there's some debate on those other ones.

ROUNTREE: OK. All right. Again, green costs.

DAN TOLEIKIS: Thank you.

ROUNTREE: Thank you. Appreciate that.

DAN TOLEIKIS: You're welcome.

BOSN: Thank you. Senator Hallstrom.

HALLSTROM: I'm, I'm looking at the bill. Can you compare for us-- what 50% of this green-shaded cost are, I can figure out. How does that compare to the state if I read this correctly, currently paying all of the operational cost for those specified categories?

DAN TOLEIKIS: Are-- is your question: do I know what the state pays for the, the items that are specifically mentioned as state costs?

HALLSTROM: In, in Sarpy County if you-- yeah.

DAN TOLEIKIS: I, I do not know what the state currently pays for those identified costs in Sarpy County.

HALLSTROM: That, that would be helpful to show what the comparison is.

DAN TOLEIKIS: We can, we can work on finding that information for you.

HALLSTROM: Thank you.

BOSN: Thank you for being here.

DAN TOLEIKIS: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

BOSN: Next proponent? Welcome.

JON CANNON: Good afternoon, Chair Bosn, members of the Judiciary Committee. My name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the executive director of the Nebraska Association of County Officials, also known as NACO, here to testify as a proponent for LB612. We certainly want to thank Senator Andersen for bringing this bill. This really kind of gets to the heart of, of a lot of the tax policy that we talk about, you know, here in the Legislature, but also at the county level, and it fundamentally comes down to the question of who pays for what. Right? And for many, many years, we've had the model where the county, and in particular the property tax payers of the county, are picking up costs for our court systems within county government. I'll just point out Article VIII-1A says that no property tax shall be levied, the state shall not levy a property tax for state purposes. There are some court cases that, that kind of illustrate what that means. *Garey v. Nebraska Department of Natural Resources* is one of them where forcing a property tax to be levied for a state purpose for the, the interstate compact with the-- with Kansas was considered levying a property tax for a state purpose. And, and that is something that we're not allowed to do. And I know that the courts have, have-- they've applied the fine line and they've used the test where if there is an admixture of state and local purposes, then it's not exclusively state and therefore a property tax could be levied for that sort of thing, and I get that. You know, and you can argue how much is the state, you know, how much skin do they have in the game versus how much do the counties and the local tax payers have in the game. But there is no question that, that the operation of the court system is a-- fundamentally a state purpose. And so anything that's going to shift the cost from our property tax payers to a state obligation is certainly something that we would welcome. I understand that there's question as to what the costs would be. We were not asked to submit a fiscal note from NACO. You know, sometimes we do and sometimes we're asked to and sometimes we're not. We're happy to have that conversation. We have-- we've, we've combed through the budgets of every single county across the state, and we can probably get a lot of numbers generated in a hurry. But with that, I'd wish you all a happy Valentine's Day and I'm happy to take any questions you may have.

BOSN: Any questions for this testifier? Senator Storer.

STORER: Thank you, Chairman Bosn. I couldn't let you off. But I am-- and I've reread those two or three times. The way, the way I read this, what is being eliminated from the bill are things the state was previously paying for, and this is saying they would only pay 50%. So

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

it's actually putting more on-- am I-- not, what am I not reading correctly here?

JON CANNON: I, I'm not sure I can answer that very well. I'd probably have to dig a little deeper into it, into the, into the text of the bill. Our understanding, though, is that, that paying for the operational costs, such as the court space, the space that's occupied. And I'll mention that, you know, the courts, they occupy the nicest offices in the primest real estate in our county seats. And so that's certainly going to have a cost attached to it. And so I, I think in, in the long term that, that what's eliminated is probably dwarfed by what's, what's encompassed by it.

STORER: So your understanding is that the state would pick up 50% of costs that they're currently not paying for.

JON CANNON: Yes, ma'am.

STORER: Thank you.

JON CANNON: Yes, ma'am. Thank you.

BOSN: Any additional questions? For the record, I read this like Senator Storer does. I think you're actually going to end up paying more at the county level if they put it all into one fell pot, one large pot, whereas right now they're paying, the state's paying for some of these things, but they're going to say, well, now we'll lump that in and we'll pay 50%. I think that's something you probably should dive into the bill and look at, because I think it might change your position.

JON CANNON: If we had the opportunity to, to write the fiscal note, we would have a very good idea as to what exactly that meant for every county across the state, and that, that could, in fact, change our position. And certainly happy to have the conversation.

BOSN: Well, you can read the bill without being asked to do a fiscal note. I mean--

JON CANNON: Sure.

BOSN: Right. OK. All right. Any other questions? Thank you for being here.

JON CANNON: Thank you very much.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

BOSN: Next proponent? Anyone here to testify in opposition to LB612. Welcome.

COREY STEEL: Good afternoon, Senator Bosn, members of the Judiciary Committee. My name is Corey Steel, C-o-r-e-y S-t-e-e-l, and I'm the Nebraska State Court Administrator for the Office of the Courts and Probation , testifying in opposition of LB612. I want to thank Senator Andersen and his staff and also Sarpy County officials for meeting with us as we've worked through this bill with some questions. Let me start by giving this committee a brief history of the Nebraska court system. In 1970, the state constitution was amended, giving the Nebraska Supreme Court general administrative authority over all Nebraska courts, consolidating the local courts and other courts of limited jurisdiction from a uniform county court system-- to a uniform county court system. These courts and court staff were transferred from being county funded to state funded. During that time, the law stated that the state should pay the salaries of all county court judges and county court staff, and the counties would continue to provide office space and operational costs for the county courts. Then on July 1st, 1985, the municipal court employees were transferred into the county court system and municipal court probation employees were transferred to the state probation system with that same agreement. Now to the merits of opposition of LB612. LB612 would change this long standing relationship between the state and county and require the state to pick up 50% of, in quotes, operational costs of the county courts. How is operational cost defined? Well, if we look at Google, and according to Google, operational costs, also known as operating costs, are the expenses a business incurs to maintain its day to day operations, including things like rent, utilities, payroll, marketing, etc.. So what is the definition of operational costs in LB612? Is it rent? Is it utilities? Is it office space, office furniture, petty cash, office cleaning, court appointment, attorney fees, guardian ad litem fees, court security, constable services, etc? As you can see, the definition is, is vitally important to the bill. Currently, the state does pay 100% of all county court staffing, and if not all, a majority of the IT cost and equipment for the county court system. So based on the definition, this would mean that counties could have to actually pay 50% of those costs. Eventually, would it mean the county would move the county courts out of the courthouse like we've seen some other state services, or would the judicial branch have to make decisions to relocate court services out of the courthouses because of these expanding operational costs? As you can see, operational costs could be defined by 93 counties in 93 different ways. We know by looking through the county budgets that there is no uniformity between

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

counties as to what the county court expenditures are. Therefore, there is no current way to estimate what the total costs would be for 50% of county court operational costs. I would be happy to answer any questions the committee would have.

BOSN: Any questions for this testifier? Senator Hallstrom.

HALLSTROM: Mr. Steel, when I look at the Sarpy County, and I don't know if you've had a chance to look at what was handed out here--

COREY STEEL: I haven't looked at the most recent, but I did, we did meet earlier this week--

HALLSTROM: And, and I noticed that there was no payroll. And your testimony indicates that the state is currently paying 100% of payroll.

COREY STEEL: That is correct. Payroll and insurance.

HALLSTROM: And would that in your mind for an operational cost?

COREY STEEL: That's to my point of what is the definition in this bill of operational costs.

HALLSTROM: And that may go to Senator Bosn's question that if you're currently paying 100% of payroll, and payroll, maybe one of the big ticket items, the counties may not be making much headway here.

COREY STEEL: That is correct.

HALLSTROM: Thank you.

COREY STEEL: It's not only payroll, it's all the IT within the county court as well in the courtroom, and the majority of the IT within the, within the court office itself, the clerk's office.

HALLSTROM: Thank you.

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

COREY STEEL: Thank you.

BOSN: Next opponent? We'll move on to neutral testifiers. All right. While Senator Andersen is making his way up, I will note there were two proponent comments submitted, no opponent, and no neutral comments submitted for LB612.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

ANDERSEN: Thank you Chairwoman, Committee, as part of closing, I'd like to address a couple of different questions. When we talk-- to one of the channels that we have is the, the definition of operational expenses. And when you look county to county, they differ in what they view to be operational expenses. So when you look at this in a context, you start with just Sarpy County, but you have to look across all 93 counties. And they're not standardized between them, which cause confusion and different baselines. The state does pay some of the costs as I said in the opening. They pay hardware, software, so the IT support. But surely that's not 50% of the operational costs, because all of the county courts fall underneath the state court system. And that's the whole premise is that if they, if they fall underneath the Nebraska state court system, then the state system should pay the expenses for operating them. That's the premise, at this point, being 50%. The payroll, I believe that's one of the existing payrolls. But there are people under the, the county court system that probably should be transitioned over to become state employees that currently are not. But we can assess that in the future, a future time. Chair Bosn and Judiciary, thank you for your time. Thanks to the testifiers online and those sitting behind me. The county courts are aligned within the Nebraska state county system, as I said. LB612 is a first good step to rectify this and try to right size it and make it what's fair, that if the state tells them they have to execute a court system but we don't pay the bill, that's an unfunded or underfunded mandate and that's not fair to the counties. And how do they rectify that? Many times they have to pass that, pass that on in, in property taxes on the same people that were having challenges now in the Legislature figuring out how do we provide tax relief. So it just kind of exacerbates the problem. This bill is trying to realign things and saying, if you so task, thou shalt pay, at this point at the 50% level. Covering up my script. That's it. Because of the inconsistencies and the lack of baseline between the different counties, that's why we don't have a fiscal note. We continue to work to establish the baseline and see what's standardized county to county and then come up with a fiscal note. Until that's actually done, my request, Chairwoman, would be that you would hold this in committee until we can come up with that kind of resolution. And with that, I'll be happy to take anybody's questions.

BOSN: Thank you. Any questions from the committee? I appreciate your time. Thank you.

ANDERSEN: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

BOSN: That concludes LB612. Next, we'll move on to LB-- You can stay, can't you? LB640. That's our committee [INAUDIBLE].

TIM YOUNG: Good afternoon, Chair Bosn and members of the Judiciary Committee. My name is Tim Young, T-i-m Y-o-u-n-g. And I'm one of the legal counsels for your committee. LB640 was introduced in response to the 2024 Nebraska Supreme Court decision in Mullins v. Box Butte County, and for the purpose of challen-- changing the calculation of sentence reduction for good behavior during confinement in jail. In the Mullins case, the defendant was sentenced to two terms of 30 days each to be served consecutively for two separate offenses. He challenged the calculation of his good time after having to serve eight days longer than he expected after his calculation of the good time. In short, the good time statute, as written, allows for any person sentenced to confinement in jail to have their sentence reduced after their 15th day of confinement, one day for each day of confinement, so long as there has been no discipline imposed for a violation of jail regulations. Contrary to Mullin's calculation, the court held that the good time statute contemplates that the first 15 day exclusion should apply to each sentence separately. LB640 simplifies the calculation of good time when multiple sentences are involved by requiring the use of the aggregate of the remaining term, including the sum of all consecutive sentences the person receives whether received at the same time or at any time during the sentence or confinement. For example, a defendant gets a 15 day sentence for a criminal conviction. Following the completion of his or her 15 day sentence would be satisfied with no good time credit applied. However, this defendant was also given a separate sentence of 15 days for a separate criminal conviction, using the calculation articulated in LB640, the aggregate sum of both sentences is 30 days. Since this defendant had already served the first 15, they would be eligible for day for day credit on the remaining days of total confinement, again, as long as there was no discipline imposed for any jail violations of the regulations. The end result in this example would be a total period of confinement of 22.5 days for both sentences. Thank you. Appreciate your time and attention.

BOSN: Thank you. Are there any-- you don't-- I don't think you can close on these, do you? Nope. You don't even have to close. All right. Are there any proponents for the committee bill? Welcome.

MARIA HATFIELD: Welcome. Good afternoon, Chair Bosn and the members of the Judiciary committee. My name is Maria Hatfield, M-a-r-i-a H-a-t-f-i-e-l-d. I am the reentry and programs administrator for the Lancaster County Department of Corrections. I'm here to testify in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

support of LB640 on behalf of Lancaster County Board and my department. By statute, individuals who are sentenced to a county jail must serve the first 15 days of their sentence. For additional days in which their sentenced, those individuals are eligible to receive a day for day credit for good time based on their behavior within the facility. On October of 2024, the Nebraska Supreme Court issued a ruling in Mullins versus Box Butte County that impacted how Lancaster County and numerous other counties calculated good time for the county jail sentences. In particular, it announced a new rule by which to calculate the application of good time for consecutive sentences. Following this ruling, we looked over a one year period to determine the impact Mullins would have on sentences within our facility. Based on our research, it appeared we are applying the first 15 day rule only in consecutive sentences within the same case, resulting in a larger good time credit than that was prescribed by Mullins. During that one year lookback period, the Mullins calculation would have extended the sentences of 80 individuals, resulting in 892 additional days served in our jail at an average of 1-- or 11.15 days per individual. Considering the significant capacity concerns Lancaster County and others are experiencing, we are asking you to advance LB640 in an effort to curtail the impact this ruling has had and will continue to have in the future. Thank you to the Chair Bosn and the Judiciary Committee for bringing forward LB640. And thank you for the opportunity to testify for your service and to our great state. I will be happy to answer any questions you may have.

BOSN: Thank you. Any questions from the committee? To sum this all up. Pre-Mullins we were doing what we're now trying to pass in legislation.

MARIA HATFIELD: So Lancaster County was applying in same cases to what we're doing. The bill as written we are in full support of, but it applies for consecutive cases in different case numbers also.

BOSN: OK.

MARIA HATFIELD: It's a little bit different, but-- so like the numbers that we provided would be even significant if we're calculating it to the way the bill is actually written. But Lancaster County is in support of how the bill is written.

BOSN: Thank you.

MARIA HATFIELD: Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

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

MARIA HATFIELD: Thank you.

BOSN: Next proponent. Welcome.

SPIKE EICKHOLT: Thank you. Good afternoon, Chair Bosn and members of the committee. My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t. I'm appearing on behalf of the Nebraska Criminal Defense Attorneys Association in support of the bill. If you look at LB640, it amends the statute 47-502, which is this-- is the good time calculation for county jail sentences. And in response to Senator Bosn's question, what this bill does is largely revert back to what most of the counties did as far as calculating good time credit. The way this Mullins case came about, and I wrote an amicus brief on behalf of our association, one of my members who practices out west had a client who got two 30 day jail sentences and was allowed to turn himself in to serve those sentences in Box Butte County Jail. Normally on a thir-- most counties calculated two 30 day sentences as a single 60 day term of confinement. And if you look on line 6 of the bill, that phrase is used when you talk about good time. The understanding, I think, for most of the county jails and our understanding as practitioners prior to Mullins' case being decided, confinement was a different term than sentence. Confinement meant the whole time that you were there in the jail. And it could be for one singular sentence on one singular count, or it could be an aggregate number of sentences. But in any event, Box Butte County interpreted it as confinement was synonymous with sentence, and two 30 day jail sentences means you do 15 hard days and then your 15 days of good time, which means each 30 day sentence is 23 plus 23 equals 46. But if you do the good time rate as most counties did, it's a single term of confinement of 60 days with your good time being actually 38. So Mullins contacted his lawyer and says, hey, they're telling me I'm going to be here another week. I've got-- I won't have enough vacation time, do something about it. So Mr. Island, my member, filed a mandamus action, trying to compel Box Butte County Jail to follow the statute. They were unsuccessful. They appealed, and the Supreme Court narrowly sided with Box Butte County. And that kind of had an effect, as you probably heard from the earlier testifier, that most of the counties, particularly the larger jurisdictions, had to readjust the way they calculated their sentences. Particularly in the bigger counties, you've got people who are serving multiple short or relatively short term sentences on different counts, different cases, and that had an impact on the county jail populations around the state. This bill would revert back to what most of the counties did as far as a matter of practice, and that's our interest as

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

practitioners, just so we know what to advise our clients and how to anticipate sentences. I'll answer any questions if you have any.

BOSN: Questions for this testifier. Thank you for being here. Next proponent?

TIM HRUZA: Good afternoon, Chair Bosn, members of the Judiciary Committee. My name is Tim Hruza, last name spelled H-r-u-z-a, appearing today on behalf of the Nebraska State Bar Association in support of LB640. I don't have a ton to add in terms of the background here. Obviously you've heard about the case. I'll echo everything that Mr. Eickholt said about our conversations with the association revolving around the fact that this is traditionally the way that most counties have interpreted the statute and applied the good time rules. The only thing I might add to it is the, the second half of our conversation, which resol-- revolved around the fact that this is how good time is generally treated in the prison sentence system as well. Which would consolidate how you're dealing jail sent-- how you're applying it to jail sentences versus prison sentences. And I'm just going to read a very short quote from Chief Justice Heavican's dissenting opinion in the case. In 1981, we held that under Nebraska statute, for purposes of good time, consecutive sentences must be consolidated. And by 1983, we succinctly stated that an offender's sentence for the purpose of good time computations is the sum of all sentences the offender receives, regardless of when incurred. From 1969 to the present, this statement has been a correct statement of law for those sentenced to the state prison system. So this bill would simply consolidate the application of good time between county jail sentences and state prison sentences. That makes a lot of sense to lawyers, and as Mr. Eickholt said, for purposes of consistency in how we're advising clients. Thank you.

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

SEAN KELLEY: Good afternoon, Madam Chair Bosn and members of the Judiciary Committee. My name is Sean Kelley, S-e-a-n K-e-l-l-e-y, appearing as a registered lobbyist for the Douglas County Board of Commissioners in support of LB640. Appreciate the committee's interest in this topic. The only item I would add is this amending of the original statute that was addressed in Mullins was, was initiated by Douglas County and Lancaster County and others to be more in alignment with the state good time law then. And we did that for 15 years and here we are today. So I'll take any questions if you have any.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

BOSN: Thank you. Any questions from the committee? Thanks for being here.

SEAN KELLEY: Thank you.

BOSN: Next proponent? Any opponents? Anyone wishing to testify in the neutral capacity? All right. I will note there was 1 proponent comment submitted, 0 opponent, and 0 neutral comments. And that will conclude LB640 and we will next move on to LB387. Terrell, no letters received. No letters.

McKINNEY: OK.

BOSN: Thank you, Vice Vice Chair McKinney, and good afternoon to the members of the Judiciary Committee. For the record, my name is Carolyn Bosn, C-a-r-o-l-y-n B-o-s-n. I represent District 25, southeast Lincoln, Lancaster County, including Bennet. LB387 is a shell bill. This was introduced just to make sure that if something were to occur, a case law were to be passed down, or we had an issue come up that we wanted to address, we had an option to be able to do that. I probably should have sent an email letting you all know that beforehand. But Senator DeBoer and I, as had been done previously by the chair of this committee, had done some of those options so that we could fix things as they needed to. So there is no actual intent to proceed on the language as proposed here, but I'm happy to answer any questions should you have them. Thank you.

McKINNEY: Thank you, Chair, Bosn. Any questions from the committee? None? Thank you. Are there any proponents? Any opponents? Anybody willing to testify in a neutral? Chair waive closing. We'll close our hearing, and for the record, there were no position letters online for LB387. Thank you.

BOSN: Thank you very much.

McKINNEY: Yep.

BOSN: All right. That will take us-- Oh, we don't have him. I think he's in the other-- he's opening in the other hearing room. Do we want to see if his LA's available perhaps? We'll take a short break and then we'll proceed with LB216.

HOLDCROFT: OK, thank you. Chairwoman Bosn and members of the Judiciary Committee, for the record, 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. Today, I'm here to talk

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

about chemical abor-- Oh. Wrong, wrong, wrong. I'm here today to introduce LB216. There are two reasons for supporting this bill. It is consistent with the Nebraska Constitution, which establishes three branches of government, each having its own distinct powers and functions, and it removes a state court administrative function and responsibility from the county to the state, which will result in property tax savings to the counties. First and foremost, the intent of LB216 is not a personal criticism of any of the clerks of the district court. The primary intent of LB216 is to promote a unified Nebraska judicial branch as provided by Article V of the Nebraska Constitution, which vests general administrative authority over all counts-- courts in the state with the Nebraska Supreme Court as exercised by the Chief Justice. This can only be accomplished by transitioning the clerk of the district court from a county funded elected office to a state funded position under the Nebraska judicial branch. A unified and independent judiciary is crucial because it allows the trial and appellate courts to make impartial decisions based solely on the law and facts of a case without political pressure or influence. This, in turn, protects individual rights and promotes fair and just outcomes. Second, the trial courts are unequivocally a state responsibility. Every applicable statute that references the clerk of the district court says that it is an administrative function that must be performed for the benefit of the trial courts. Therefore, LB216 transitions the responsibility of a state administrative function from the county to the Nebraska judicial branch. We have heard it before and will continue to hear it again that the citizens of this state want property tax relief, and county governments are frustrated with footing the bill for unfunded mandates, especially for those duties and responsibilities the counties consider a duty and responsibility of the state like the courts. LB216, if passed, will provide property tax relief with an estimated overall savings to the counties of \$15 million. Million with an m. Following me and testifying in support of LB216 is Corey Steel, state court administrator, who will expand on what I have shared with you in my opening testimony and will also be able to answer any questions that you may have. Thank you, Chairwoman Bosn and members of the Judiciary Committee for your attention.

BOSN: Any questions from the committee aside from why you shout my name? Thank you-- Oh, Senator Hallstrom.

HALLSTROM: Do you think Senator Bosn's hard of hearing?

HOLDCROFT: Well, some-- sometimes she-- I won't, I won't answer that.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

HALLSTROM: You don't have to answer that.

BOSN: Thank you. Senator Rountree.

ROUNTREE: I, I don't have a question for Senator Holdcroft, but I believe it's his military background if we situate who we're talking to. So it's a sign of respect.

HOLDCROFT: It's a sign of respect. Very good, Senator Rountree.

BOSN: He's got your back. Thank you all. Any other questions? Are, are you staying here to close or--

HOLDCROFT: I'm going to go back.

BOSN: OK. Do you want us to text you to close or you're going to waive?

HOLDCROFT: Yeah. If you text me, I'll try to get back. Yes.

BOSN: I can do that.

HOLDCROFT: Actually, there aren't as many people as we thought.

BOSN: OK. All right.

HOLDCROFT: Maybe.

BOSN: First proponent. Welcome.

COREY STEEL: Thank you. Good afternoon, Senator Bosn, member of the Judiciary Committee. I am Corey Steel, C-o-r-e-y S-t-e-e-l, and I'm the Nebraska state court administrator for the Administrative Office of the Courts and Probation, testifying in strong support of LB216. LB216 is a path towards a more efficient and functioning court business model that will allow the judicial branch to address some of its challenges and provide greater consistency in court administration across the state. Under the current court business model, an elected county official's performing state court functions and the county's property taxes are paying for it. There is-- these are not functions of the local county where an elected official is able to make decisions that affect their communities, such as infrastructure, zoning laws, or add local taxes. The clerk of the district court can only do what they are administratively required to do by statute, Supreme Court rules, and by Supreme Court or local judges' orders. They truly have no ability to act independently and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

should be accountable to the Nebraska judicial branch, accountable to the law, and not to the public. I know many elected clerks of the district court are competent and perform their court responsibilities within the guidelines prescribed by the court's code of conduct for court professionals and expect their employees to do the same. So why would we not-- why would we want to jeopardize losing these great clerks to a contested election? Why should a fair and impartial clerk of the district court risk losing an election for performing strictly administrative functions required by state statutes, Supreme Court rules, or local rules? I have provided you as an attachment with a general overview of the canons that apply to court professional-- professionalism, and some of the reasons transferring the clerk to the district courts. Please contemplate how having an elected officials in a ministerial and administrative role can be problematic. As it stands now, when incidents and complaints are brought to the attention of the Nebraska Supreme Court or the administrative office, no one in the Nebraska judicial branch, not the Chief Justice, not the Supreme Court, not the presiding district court judge, and not the state court administrator has any authority or ability to investigate, address or correct the issues and behaviors although the current state-- the current constitution of the State of Nebraska gives the chief justice general authority over the entire court system. Just think from your perspective. How effectively would the legislative process function if the Speaker or the Executive Board had no authority over the Clerk of the Legislature because they were in a different branch of government? I have also attached the testimony, an email sent to the Judiciary Committee from a well respected former clerk of the district court that speaks to the very issue of what we are trying to accomplish with LB216. I'm happy to answer any questions you may have about our transition plan, fiscal note, or administrative operations.

BOSN: Thank you. Any questions for this testifier? Seeing none, thank you very much. Oh, I'm sorry, I didn't--

HALLSTROM: Mr. Steel, would this allow you to provide better uniformity over training of district court officials?

COREY STEEL: It would. And currently, Senator Hallstrom, we work with the Clerk of the District Courts Association to provide some, if not a lot of that education. But we know that there's operational efficiencies across the state. They work independently in how, how they operate and function within their office, not only processes, but also staffing inconsistencies within those offices as well. So it would, would help us have consistency from one end of the state of how court op-- how court offices operate.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

HALLSTROM: And these are truly administrative or ministerial functions that they're carrying out?

COREY STEEL: Correct, they are the-- they are the administrative function of the district court. They don't have authority outside of what is put in state statute or in the local or Supreme Court rules for any function of decision making besides how many staff they have in their office, and where to position those staff, so to speak. Outside of that, the court process and the filing of how the cases come through all are dictated by those other functions.

HALLSTROM: In, in elect-- Having them as an elected official is just always the way we've done it?

COREY STEEL: Correct. And so if you remember back to my testimony from LB612, the history of the court system, it is the last fragment or section of the judicial branch that has started county and has not transitioned to the state, such as the district court, County court and probation system has all transitioned from county to the state. This would be the last section of the unified court system that would transition.

HALLSTROM: Thank you.

COREY STEEL: Thank you.

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

ROUNTREE: He asked the question I wanted to, but I thank you.

BOSN: Now I think you're ready to go.

COREY STEEL: OK. Thank you.

BOSN: Thank you. Next proponent. Welcome.

JIM MASTELLER: Good afternoon. Senator Bosn, members of the Judiciary Committee, my name is Jim Masteller, J-i-m M-a-s-t-e-l-l-e-r. I am one of the 18 district judges who serve the people of Douglas County. I'm here to testify in support of LB216 at the request and on behalf of all 18 district judges in the Fourth Judicial District. I'd like to begin by thanking Senator Holdcroft for introducing the bill. I wish he was here. Although we judges hear a lot of testimony, we typically are not the ones testifying. So I am a little bit nervous. I did ask around, and the last time one of our district judges from Douglas

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

County came down to testify was back in 2020 when Judge Derr did so. I only mention this to, to convey to the committee how important this particular bill is to the district court. District court clerks are extremely important to the efficient and orderly operation of the district court. Clerks of the district court are ministerial officers under the control and direction of the district court. And by that we mean that their duties consist of following the directives of the district court and performing administrative functions for the benefit of the district court. Senator Hallstrom, as to your question, this, this is a long standing position. The Nebraska Supreme Court said that all the way back in 19-- I'm sorry, 1888, in State v. Le Fevre, L-e F-e-v-r-e, that's found at 25 Neb. 223. In that Supreme Court case, the Supreme Court referred to the clerks of the district court as ministerial officers of the district court in the discharge of their duties, which are by law placed under the direct supervision of that court. They went on to say that the clerks of the various courts are under the control and direction of the courts of which they are such clerks. In the discharge of these ministerial duties, the clerks perform vital and essential court functions. As such, it is absolutely imperative that the district court and its clerk be on the same page and be able to work closely with each other for the benefit of all the citizens. The independence of the judicial branch is seriously undermined by the fact that the district court currently has no role in the selection of its own clerk. Think about that. It's remarkable. The district judges are constitutional officers and we don't even have a say in who our clerk is. LB216 provides that eventually all clerks of the district court will be appointed by the local district court judges and will be subject to the personnel rules of the Supreme Court. The citizens will still be involved, albeit indirectly, in the selection of the clerk, in that the voters decide whether a district judge should be retained on the bench or removed from office. This bill promotes and preserves the fundamental concept of three separate and independent branches of government. This bill preserves local control over the selection of the district court clerk. And it also provides citizens with much needed property tax relief, which in my book is a win win win situation. And that's why the judges of the Fourth Judicial District are strongly in support of this bill. Thank you for giving me this opportunity to speak with you, and I'd be happy to answer any questions.

BOSN: Thank you. Any questions from the committee? Seeing none, thank you very much for being here.

JIM MASTELLER: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

BOSN: Next proponent? Welcome.

MIKE KENNEDY: Good afternoon. My, my name is Michael Kennedy. I'm an attorney in family law in Omaha, Nebraska. I'm also on the Millard School Board. I'm not here testifying for Millard School Board.

BOSN: Before you get started, can you spell your first and last name?

MIKE KENNEDY: Yes. M-i-c-h-a-e-l, middle initial S, K-e-n-n-e-d-y.

BOSN: Go ahead. Thank you.

MIKE KENNEDY: I work in the family law area and I'm active in the community, in the youth, working with kids. I serve on the Boy Scouts board, I've been on the Omaha Library board, and I've been on the Millard School Board for 22 years. My practice is heavily kid focused. And I'm here today to echo what the previous two testifiers said, but I want to make a personal plea to this committee. I work with kids that are put in danger by spouses, parents, other people, and I have to seek a order from a judge of the district court. It's pretty serious. I filed two weeks ago on a Wednesday a motion for an ex parte order because a father who rarely had interacted with his kid on an overnight basis took the child from Douglas County, took him to Hamilton County. At 2 p.m., Judge Peter Battalion signed a order giving ex parte custody to my client, and I already had lined up in Hamilton County and Aurora a sheriff to serve him. We have a problem in our clerk's office in Douglas County. I pleaded for two days, even threatened to call Jeff Funke down, Supreme Court Justice Funke, to try to get some resolution on this matter. It took me 48 hours, approximately, to get the order pushed through the clerk. We had a child for two days that was without his mother, had not spent more than a few nights with his father. The child was pulled out of OPS and placed in another school district. These orders need to be processed. I have talked to other members of the bar. We have orders not being processed on an emergency basis. And when a bailiff from a district court judge goes down and asks where the order is, it used to be in Douglas County the deputy would go find the order in the stack. My office was told repeatedly, including to myself personally, that they had to follow a process and they couldn't go into that stack. We have prisoners sitting in jail in Douglas County, that are sitting in jail for one or two days because orders are not getting processed. And a couple of members of the criminal bar asked me to bring that to you. I'm asking this pass because we need a professional clerk, one that's trained and can be held accountable by the state system to deal with that. We're putting lives in danger. District court judges sign orders

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

that have severe consequences if they're not followed and they're not being processed in Douglas County.

BOSN: Thank you very much for your testimony. Any questions from the committee? Senator Storm?

STORM: Thank you, Chair. Thank you. So do you practice in any other county besides Douglas?

MIKE KENNEDY: Absolutely. Like all over the state. I'm in Wayne, Lancaster, Colfax. I was down in Sarpy the other day. I'm on the eastern side of the state. In fact, I have, I have a new case in Red Willow County.

STORM: OK. So is this widespread throughout the state or are we just talking Douglas County?

MIKE KENNEDY: I'm going to speak on my personal experience. I do echo the sent-- sentiments that were previously testified to, but I have never had this issue in Douglas County until the new clerk was elected. And I have never seen the lack of professionalism that I have seen with any of the clerk offices I worked in, probably maybe 15 counties that I've practiced before.

STORM: So the other counties are good, you're saying?

MIKE KENNEDY: I'm saying that I've never had a problem getting an emergency order that protects a child through, and I've had no issues with any other clerk's office. Lancaster County, no issues. Sarpy County, no issues. Seward. I, I have never had the problems I've had here, and a personal phone call should have resolved it. It was not resolved. And I made multiple phone calls and so did the judge's bailiff.

STORM: So is this brought because of one county in Nebraska?

MIKE KENNEDY: Well, that I don't know. I, I, I agree with the sentiments, sentiments that was previously testified by the two speakers, especially Judge Masteller, about this. It should be aministerial function. Now functioning as lawyer and someone that works, I'll give you a school board example. I'm elected to the school board. I'm not the superintendent. I hire a professional superintendent, has the training, knowledge. And skills to be able to do the job. I'm sure the court's office would do that. When they place a clerk into a big county like Douglas County or even a small county like Red Willow County, I'm sure that they're going to hire the right

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

person for the job that has the training and the experience to do it. It's a ministerial function. But when you can't get a simple ex parte order to protect a child or to get a prisoner out of jail for two days, and there's no recourse in the system, under their solution, it would be taken care of because you would be able to deal with that as a personnel matter, a training matter.

STORM: Can't the-- maybe I missed this, maybe not. Can't they be removed if they're not doing their job?

MIKE KENNEDY: Well, the next election in Douglas County is in--

STORM: Without an election, I mean, can't the Chief Justice remove anybody, or is that not--

MIKE KENNEDY: That's beyond my scope, but my reading of the law is I don't believe the Chief Justice can.

STORM: OK.

MIKE KENNEDY: And, and I think that may be the issue because as it was testified earlier to, the system you have with the county courts works because if there's a problem with a clerk, you can deal with training, discipline and all that. You can't do that with an elected official. And the question you have to have here is if you don't have school board members running a school district, isn't it kind of logical you don't have an elected person run a ministerial function? And I think that's what I think this committee and ultimately the Unicameral's going to have to look at is, what is the best solution to take care of that ministerial function. I'm just giving you an example when you have a person that--

STORM: Sure.

MIKE KENNEDY: --may not have the right training doing the job, how do you deal with that?

STORM: Sure.

MIKE KENNEDY: And we do have a big problem in Douglas County.

STORM: OK. Thank you.

BOSN: Any other questions? Senator Rountree.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

ROUNTREE: Thank you so much, Chairwoman Bosn. Thank you for your testimony. So I echo the same questions as Senator Storm had asked on that. When I was just looking at section 3 of this bill, it says, beginning January 7, 2027, all elected clerks of the district courts and such clerks' employees shall become state employees under the Supreme Court. So we're not looking at removing anyone. You talked about an election and so forth, but I believe everybody's got some accountability and some factor. The fact that we're now trying to transfer these over from an elected position that happened way back when, 1888 or something we talked about there, coming across this way. So we do have some accountability. It sounds to me that as you're here today, it's specifically against one clerk versus other clerks that are across the state. Is that is that what we hear?

MIKE KENNEDY: Well, yes and no and I'll go this one. I believe it should be a ministerial function. I've always believed that. But what I'm giving you an example of is when you can't take care of it. And I find it extraordinary that a district court judge had to come here and testify today here about a bill. The judiciary rarely gets involved in, in, in, in bills. So I think when you have a judge from the 18 in Douglas County testify here, you should really listen to that and also listen to what the state court administrator said. And then you have a member of the bar telling you personally the problems, because here's my issue. If I have a problem, it should be fixed. But there have been ongoing problems in Douglas County. How do you investigate it? How do you work that out? How do you take care of that? And, and for two years, we have had this issue in Douglas County, and unfortunately, we had to bring it to you in front of a bill. I think it's good practice to maybe move it that way. But I'm telling you, if you get the wrong person there you don't have the methods to be able to deal with it. Like the State Court Administrator can deal with an employee that maybe needs some counseling, some retraining or something. We don't have that availability in Douglas County. And like I said, I'm not the only family law lawyer this has had a problem. In fact, this is the second time this has happened. But there are a lot of prisoners that have been sitting in jail too long because the orders aren't processed, and that's a cost to the taxpayer. I have heard people on work release not having orders processed that almost lost their jobs. An attorney in Omaha, Glenn Shapiro, asked me to provide that to you. I, I think having it under LB216 puts that place in there so you wouldn't be hearing about this. So that, that's my take on that, Senator.

ROUNTREE: I appreciate that. But let me assure you that I am listening.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

MIKE KENNEDY: Thank you.

ROUNTREE: And I do respect those who have come, not only listening to your words, but also listening to the spirit, which is why I asked the question. Thank you so much for your response.

MIKE KENNEDY: Thank you, Senator.

ROUNTREE: Thank you.

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

MIKE KENNEDY: Thank you.

BOSN: Next proponent?

ROUNTREE: Appreciate you.

MIKE KENNEDY: Thank you, Senator.

BOSN: Welcome.

CHRISTA YOAKUM: Hi. Good afternoon, Chair Bosn and members of the Judiciary Committee. My name is Christa Yoakum, spelled C-h-r-i-s-t-a Y-o-a-k-u-m. I'm appearing before the committee in my capacity as vice chair of the Lancaster County Board of Commissioners. I'm here to testify on behalf of the County Board in support of LB216. The Lancaster County Board is committed to providing sustainable local governmental services to our constituents, constituents. The provision of services at the county level largely is defined by statutory mandates from the state. Each year, the Lancaster County Board makes tough decisions during the budget process to ensure that our constituents enjoy a reasonable property tax rate while also receiving the services that we are mandated to provide. Some mandates go to the core of the responsibilities of the county government. These functions generally provide a direct benefit to our constituents under the supervision of county officials like the county sheriff, the county treasurer, and the county clerk. And providing and funding them with real property tax is entirely to be expected. Other mandates, such as paying the cost of certain state of Nebraska judicial staff primarily constitute shifting the cost of state functions to counties, placing an unreasonable burden on our local property tax payers. While rising costs and increasing limit-- increasingly limited revenue streams outside of property tax, we often are faced with the prospect of choosing between the prospect of curtailing service levels or-- for core services, or raising property tax levy to pay for the increasing

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

costs of state government. LB216 squarely addresses the issue by reclassifying clerks of the district court and their staff as employees of the state. The clerk functions essentially as the front door to the state's district courts. The court's operations are subject to the policies of the Administrative Office of Courts and Probation, as well as the daily direction of district court judges. Nonetheless, the clerk's staff are currently classified as county employees, the cost of which amount to approximately \$1.9 million in our current budget. LB216 takes the common sense approach of reclassifying these employees within the state hierarchies that direct their policies, their mission, their daily work, while also resulting in meaningful property tax relief. Although we do not take lightly the elimination of a potentially elected office, we are in the position of having recently appointed the current officeholder after his predecessor resigned. During that appointment process, the incongruity of having the county board appoint what is essentially an employee of the state judiciary and district court judges became apparent to us. In light of our recent experience and given the amendment's thoughtful and strong protections for current employees, we support the realignment proposed by LB216. Thank you for the opportunity to testify and for your service to the great state of Nebraska. I would be happy to answer any questions.

BOSN: Thank you. Any questions for this testifier? I guess just as a point of clarification, I have one. When you talk about strong protections for current employees, am I reading this proposed bill correctly that none of the existing elected officials' positions would be eliminated until their term had ended and then it would become an appointee?

CHRISTA YOAKUM: Yes, I believe that's correct. But there's also the shift of the other employees from being county employees and, you know, protecting their retirement, their benefit package, that sort of thing, as they, as they transition is important.

BOSN: Thank you. I appreciate that.

CHRISTA YOAKUM: Mm hmm.

BOSN: Any other questions? Thank you for being here. Next proponent. Welcome back.

TIM HRUZA: Good afternoon, Chair Bosn, members of the Judiciary Committee. My name is Tim Hruza. For the record, last name is spelled H-r-u-z-a, appearing today on behalf of the Nebraska State Bar

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

Association in support of LB216. We typically take positions on bills with an eye toward the administration and acts of --and access to justice. And I think that's primarily what motivates me appearing before you today. I appeared and testified on a version of this bill that was introduced by Senator Wayne during the special session last fall, which by my understanding is the first time that the Bar Association had appeared on this issue in the several years that it's been introduced. The conversation dates back to my serving as legal counsel for this committee almost eight years ago and well before that, where you had conversations and concerns about whether or not this office truly should be an administrative employee of the court system for consistency's sake. I think if you go back over the years too, you'll see that our statutes around how this is handled have developed. I don't remember if Corey-- if Mr. Steel testified to it earlier, but maybe to answer your question, Senator Storm, there have been several conversations about kind of whether or not it makes sense to have this be an elected office for, for-- dating back at least a decade, primarily con--focused on, you know, one off issues here and there, instances where you have inconsistencies between district court operations, county court operations with the county courts being handled there. Part of the compromise that's evolved over the years is the ex-officio process where counties can opt into a consolidated approach for the county court and the district court clerk system. Through all of that, the Bar Association never really appeared here. And I can tell you, even in our conversations this fall, you're going to hear from several elected clerks here today. Our lawyers really appreciate working with their elected district court clerks. They, they understand their value. They also appreciate working for the county clerk's office, which are state employees. And I think what you get to is you get to a point where we have concerns about the administration of justice and ensuring that the system operates well. You asked about whether it was one county, and I just-- I make that point to tell you that there are stories over the years where friction has arisen, maybe in minor instances, but I think we're, we're appearing before you today because we do think that moving toward a consolidated approach makes a ton of sense. Maybe also, just to answer your question, Senator Storm, I see I'm running out of time, but there is no current process for the removal of that officer. I believe that there are other testifiers who'll talk about maybe that approach as an option. We have not talked about that in depth and I've visited with the proponents of that, maybe, approach. It's something we're willing to explore. But I think at the end of the day, from the Bar's Association standpoint, from the practice, you heard a very passionate plea from Mr. Kennedy, and I've heard that from several individual

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

lawyers, too. I might just say that we see in the long run some real value in ensuring that the court system functions in a consistent administrative manner, with, with the chief ultimately having the, having the idea of the administrative functions. And then you all obviously passing the statutes that, that infle-- influence what they're, they're supposed to be doing. So with that, thank you. I'm happy to answer any questions.

BOSN: Questions for this testifier? Senator Hallstrom.

HALLSTROM: Mr. Hruza, is there anything that would prevent the current elected official from being appointed if this transition takes place to the newly created position?

TIM HRUZA: As I read the bill, Senator, that-- no, I mean, I think the intent, the intent of the bill would be to allow them the opportunity to transition into that role along with the existing staff. That's the, that's the way I understand the bill as it's structured right now.

HALLSTROM: And would you see anything wrong with guaranteeing, at least initially, that all of those elected officials be put in that position?

TIM HRUZA: I don't think we have a position in terms of any of that. I obviously would defer to Mr. Steel and how they kind of envision the roll out. Versions of this bill that have been considered before, Senator Dorn had a bill before that would have allowed those elected pe-- those elected folks to transition out as they retire. Again, we never took a position on that. I think we'd be in support of something like that. But with the mindset toward when the system doesn't function, justice is impaired. And we've had some, some very serious incidents that have given rise to major concerns dating back the last couple of years.

HALLSTROM: Thank you.

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

TIM HRUZA: Thank you.

BOSN: Next proponent. We will now move on to opponents. Is there anyone here to testify in opposition to LB216? Welcome back.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

JON CANNON: Thank you. Good afternoon, Chair Bosn, members of the Judiciary Committee. My name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the executive director of the Nebraska Association of County Officials, also known as NACO. I'm here to testify in opposition to LB216. I certainly appreciate Senator Holdcroft bringing the bill. This gets into a lot of very fundamental questions about the nature of state versus local control. We're always happy to have an opinion on that. We are fundamentally opposed to the elimination of an elected office in county government. One thing that you've probably heard me say or you will hear me say frequently is that county government is the form of government that is closest to its people. You know, statewide, in the last four years, county officials received 4.2 million votes, which is more than any other elected office can say. And the reason is because you have the same people that vote for the county assessor, that vote for the county clerk, that vote for the county treasurer, etcetera, etcetera, etcetera. But what that means is that the people in each community are choosing the people that are running those functions in county government. The clerk of the district court is something that has traditionally been associated with, with the counties. We don't call them county administrative buildings, we call them county courthouses because it was mandated a long, long time ago that property tax dollars would build a house for the administration of justice in our state. As the local property taxpayers paid for that, they continue to pay for that through the maintenance and the upkeep of the courthouse, providing the nicest office space in the courthouse for folks in the judicial branch of government. And if, if they are not entitled to have at least some local input as to who is in that office, one of those offices, that seems kind of like a derogation of, of what the people were expecting when we created county courthouses across the state, you know, and I know that goes back 150 years and most of those bills have been paid off. But still, the point remains is that those have been paid for with county property tax dollars. In my prior testimony on LB612, I talked about general tax policy, who pays for what. I mentioned Article VIII, Section 1A, which says property taxes shall not be levied for a state purpose. But actually, what I want to go to is the statement of intent. It says that LB216 would place general administrative authority over all courts in the state with the Nebraska Supreme Court as exercised by the Chief Justice. And I wonder exactly how s-- how this bill gets us there. They, they will not have any less general administrative authority than they have currently. They won't have any more either. The, the, the functions of the court are still determined by the, by the Chief of the Justice Supreme Court. Another thing I would like to address is accountability. The judiciary are not

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

cashiers. They're not expected to be, nor-- they should not be. We as creatures of the state, however, are subject to audit from the State Auditor's Office-- or the, pardon me, the Auditor of Public Accounts. The, the separation of powers principles that we have, however, would have that if you remove entirely the, the function of the clerk of the district court, there's going to be no accountability. If, if the court, and I, I would not accuse the current court of, of ever doing this. But if the court ever decided in the future that the auditor's office has no authority to examine the records of the, of the court system, they can say that and you will remove one branch of government entirely from a very crucial check and balance that we have established in, in government over time. I will note that my, my time is up. I have just a few minutes to go, if I, if anyone would like to give me a question, but I understand that it is, you know, late in the afternoon before we go off on a four day weekend.

BOSN: With that in mind, are there any questions from the committee?

HALLSTROM: Do you have anything else to say?

JON CANNON: Thank you, Senator Hallstrom, I do. I will note that when the judiciary had exercised their opposition to LB612, it was not to protect the property tax payers from any shifts over to them, but rather to-- on the premise that they should have to pay for any part of, of them being housed within the courthouse. I think that's fundamentally wrong. I don't want us to veer off into, into quoting Spider-Man, but as everyone knows, with power comes responsibility. And it seems that there's a, there's a desire here to have power over the court system, but not so much the responsibility for the payment of that, that part of the court system. There's been some testimony that talked about how there is no way to remove an, an official if they're not performing their duties. There are. And I would refer all of you to Nebraska Revised Statutes, Section 23-2001, which provides a number of avenues for removing a county official from their office. The amendments that I handed out to you, there's an amendment that we drafted that would provide a much more definite procedure. It's modeled after the, the procedure that we have for removing assessors from county government and removing their certificate to be a, be an assessor. That is a-- that's another alternative if we don't like 23-2001. And I would say that under 23-200-- I believe it's 23-2004, there's the ability for almost any person to accuse a per-- a county official of having been derelict in their duties. And so if that is the issue, there is an avenue already. And to the extent that we need to have a more definite one, we're happy to provide that. The last thing I will say is that our experience at the county level is that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

when these functions are moved over to state government, it sounds great to talk about how it's a, a, a savings for the property taxpayer to centralize power within the state. And that's obviously fundamentally in opposition to the notion of local control. When you do that, however, our experience has uniformly been that the services suffer, invariably. I will tell you that when we did HHS many, many years ago, back in the '80s, there were complaints that were lodged across the state about the lack of service that people were receiving in county government. When we have moved things more over to, and I believe Mr. Steel had referenced this in his testimony, when we talk about the ability for those ex-officio clerks to contract with the state. I've been hearing complaints from those, those counties that did that, they say that they wish they had not done that. And so fundamentally, the question of local control isn't all about savings. It's about the service to the taxpayers of the state that they expect and deserve. With that, I'm finished, and I'm happy to take any questions. I appreciate your indulgence, particularly Senator Hallstrom.

BOSN: Any other questions? So if they pay for the rent, are you good?

JON CANNON: Our position would be reconsidered very, very fully.

BOSN: I mean, do you agree that it's a significant concern that there's a child who's been removed from their school and from their parent, moved to another county, and the clerk allegedly put that on the slow process? I mean, I'm sure his orders aren't going to get any faster now that he came and testified here. And I would certainly be concerned if I were him for his clients as well. I mean, do you agree that that's--

JON CANNON: That is always, that's always going to be a legitimate concern. And I'm, I'm not here to say that-- to, to defend, or, or, you know, sing the praises of any particular person in an elected office, other than to say that those avenues for, for discipline are there and have been there. And the fact that they have not been made use of, I, I think that should be very telling to this committee that no one, I mean, I'm assuming, and, and every time I read a Supreme Court opinion, you know, failure to understand the law is no excuse. Right? I'm assuming that they understand the laws that govern the removal of an elected official from office. And if they have not chosen to make use of those laws, we can't be responsible for that.

BOSN: Fair enough. Senator Hallstrom.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

HALLSTROM: I'll apologize upfront because I don't know that I've got enough background to ask the proper question, but just at face value, how do you comport your position of supporting what you think is additional funding under LB612, versus your position in opposition here. Is it all about local control? Looking-- how do you comport those two positions?

JON CANNON: Sure.

HALLSTROM: And maybe they aren't diametrically opposed, but it seems to me that they are.

JON CANNON: Yeah, no, that's a great question, Senator. I'm glad that you asked that. You're right. Fundamentally, we, we are about local control, but we're also about the proper division of labor between the state and the local governments that we have. To the extent that you've got a bill in front of you, and, and looking at the four corners of this bill, it says the judicial branch of government wants to be accountable only to, unto itself. That's problematic when we're paying for it. We're paying the load, right? The property taxpayers are paying for that. When you talk about something that, that starts with, presumably would shift some of that responsibility over to the state, because there is definitely an admixture of state and local purposes when you talk about the administration of the court system in the county courthouses. We're going to be in support of that as well by virtue of the fact that there is definitely, there's definitely a state purpose for the court system. There's no question about that. The question is how much of that should the locals pick up? And, you know, 50-50, we prefer 100%, of course. But I don't think those, those two positions are mutually exclusive in the extent that, you know, we prize local control. But to the extent that we're told that this is a ministerial office only, and that the courts want to exercise total control over it, well then there should be a payment obligation as well. And that's one of the other amendments that I provided as well, which would be for, for the judiciary to take over the funding of the court system in, in the counties.

HALLSTROM: And I'll look at that. But-- and I assumed your position would be we prefer 100% over 50% on the first bill, but there's a \$14 million fiscal note here. What's left in the gaps that the state isn't picking up in assuming control of a ministerial or administrative function of the current elected officials?

JON CANNON: Rent is probably a big part of it. Office equipment, furniture, those sorts of things that you see listed in the statutes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

HALLSTROM: And thus Senator Bosn's question was focusing in on, on that very issue when she asked about paying the rents?

JON CANNON: Yes, sir.

HALLSTROM: Thank you.

JON CANNON: Yes, sir. Thank you.

BOSN: Thank you for being here.

JON CANNON: Thank you very much.

BOSN: Next opponent.

AMBER MULBERY: Hello. Amber Mulbery, A-m-b-e-r M-u-l-b-e-r-y. I'm here on behalf of the Nebraska Association of Clerks of the District Court, and our association did take a vote in opposition. I was here about a week ago and I walked around this building and there's something that stuck out to me. I'm sure maybe you have noticed is it as well. It was names. Names such as Arthur, Dakota and Gage, and it reminded me of this book I was recently gifted. Perhaps you've seen it. It's an amazing piece of work. And there's a common theme in this book, as you can imagine. And it's these names, again, names of counties, counties that represent all of us, counties where we come from, and counties that we call home. You see, clerks of the district court are individuals who represent these counties. To them, the positions they hold and the work that they do is more than a daily business transaction. People want ease of access to their government officials. It's an important feature of American democracy. They want someone to talk to, not a piece of paper or a QR code to locate a body to help them. County government was designed to serve as the administrative arm of the state, charged with delivering services mandated by the state. Clerks of the district court are not some new addition to the Constitution or to state statute. Elected clerks of the district court have been here for over a hundred years. Nebraska is not some stand alone. There are other states who still maintain clerks as elected officials. No disrespect to the bar association here, however multiple times in hearings they brought up this need for consistency. They're missing a chapter in the description of these events. You see, consistency does not normally, or inconsistency does not normally come from the clerks. It comes from the judges. And no disrespect to them either. Let me explain. The judge in one county may require a proposed order be sent with the motion they file. When we notified the attorney, they're confused, because in their county they don't have to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

provide the proposed order. This is one of the many examples of inconsistency that occur that is not a result of the clerk. The clerk is the mere middleman in the transformation-- or in the transfer of information. Now, right out of the gate, this bill should be problematic to you. If the state has these kinds of funds available, the path forward should be universally beneficial. This would have to be an update of the record keeping system, something that would benefit the majority of users, from the public to the judges to probation, to the courts, all of them. That is the path forward for this kind of money. The answer is here for you. In fact, it has always been here for you. Those who came before you left the answer to you. Look no further than to exit this building and look up. The answer is engraved on these walls.

BOSN: Thank you for your testimony. Any questions of this witness? Or testifier, sorry. Senator Hallstrom, followed by Senator Storm.

HALLSTROM: One of the previous witnesses suggested that the switch over would be, not that you wouldn't, would no longer, if we did this transition, be clerks of the district court, and that you wouldn't be elected, you would potentially be appointed by the district court judge. Would you not, subject to oversight of more significance, still be performing the same duties, or am I missing something?

AMBER MULBERRY: I don't know how to answer that question, I guess. I-- my, my initial thought off the, the gut is, what do you think about an elected official trying to remove an another elected official by creating statute to do it and taking away the vote of the people that voted for the clerks, this elected position.

HALLSTROM: But if we transition it after your current term of office, and potentially I mentioned earlier that even if it's, if it's permissible, guaranteeing that whoever's in that position as an elected official would continue as an appointed position, at least initially, subject to--

AMBER MULBERRY: Sure.

HALLSTROM: --to the will. Does that soften the blow?

AMBER MULBERRY: I would just say I can't answer that question. I'm here on behalf of the association. They took the vote in opposition to the bill as it is currently written. Would they come back with a different position potentially? I don't know.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

HALLSTROM: And, and where are you located as clerk of the district court?

AMBER MULBERRY: Saline County, Wilber.

HALLSTROM: Thank you.

BOSN: Any other ques-- Oh, I'm sorry, Senator Storm. I apologize.

STORM: Thank you. So do you know, has there ever been a clerk removed for misbehavior without, I mean, and not being voted out of office if they do something wrong. Like, have you, have you ever heard of that before? Or do you know?

AMBER MULBERRY: Not that I am aware of. I mean, they're elected officials, so I'm assuming they would have to go through those processes to remove an elected official, but I am not aware of any.

STORM: But there has to be a process if you have an elected official that's not doing things right to be removed. So do you know if that's ever been done before?

AMBER MULBERRY: And I, and I think somebody else, I think someone else testified to that there must be a statute that relates--

STORM: Right.

AMBER MULBERRY: --to the removal.

STORM: OK. Thank you.

BOSN: Can I have you spell your name for the record? I'm not sure I had to do that.

AMBER MULBERRY: M-u-l-b-e-r-y is my last name. My first name is Amber, A-m-b-e-r.

BOSN: Thank you.

AMBER MULBERRY: And I forgot to hand out my-- is that--

BOSN: That's OK.

AMBER MULBERRY: And it does have a list of those other states that have elected officials. [INAUDIBLE].

BOSN: Thank you. Next opponent. Welcome.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

KEVIN HORN: Hi. My name's Kevin Horn, K-e-v-i-n H-o-r-n. I'm the clerk of the district court of Box Butte County in Alliance, 400 miles to the northwest. I drove 400 miles to get my three minutes. That should tell you how much I oppose this bill. I think the key word on removing people like myself from office, if I'm not doing the job, is recall. If the citizens don't want me in the office because they don't feel I'm doing my job correctly and they don't want to wait till the '26 election, do a recall, That's pretty simple. We've had those in Alliance. Simply put, I do not want to work for the state of Nebraska. I have no clue as to why the state of Nebraska would want to add the district court clerk's office to the state's budget. Governor Jim Pillen, in January, said you have a \$432 million shortfall. So why add more to the state's budget? My office expenditures between July 1st of '23 and June 30th of '24 was \$103,500. We ended the fiscal year by spending \$5,800 less than our budget authority. In my ten years as clerk of the District Court, I have never gone over my budget authority. My office consists of myself and my deputy clerk, two of us run the show. I've lived in Alliance for-- and, and the thing of it is too, is that of the \$103,000 budget, we bring in in 2023, brought in, \$43,700. And that came from child support reimbursement and passport fees. So that's 43,000 you take away from 103,000, and Box Butte County basically is paying \$60,000 for my office, that's only \$5,000 a month, folks. I've lived in Alliance for 38 years, the last ten years serving as the district court clerk. During that time, I have seen the decline of many businesses who have had corporate people start calling the shots from afar. These include the Burlington Northern and Santa Fe Railroad, where decisions about Alliance were made from Fort Worth, Texas. One of their decisions was to move all the train dispatchers out of Alliance and force them to relocate to Texas or give up their jobs. The big one I want to push and why this is such a sensitive issue for me is KCOW Radio, whose corporate offices are in Hays, Kansas. Several jobs were eliminated under the guise of efficiency. Their decisions only led to a decline in local programming and community service. Alliance residents were very unhappy. I know so because I worked for KCOW for 24 years before I was elected as clerk of the district court. Again, I do not want the state of Nebraska and the chief of the, the-- I don't want Mr. Steel's office calling the shots for Alliance 400 miles away. I want to answer to the voters of Box Butte County who pay my salary and who put me in office.

BOSN: Thank you very much for your testimony and for your long travels.

KEVIN HORN: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

BOSN: Especially on these roads. Are there any questions for this testifier? Do you have a written copy of your testimony?

KEVIN HORN: Actually, it's a three page letter.

BOSN: OK.

KEVIN HORN: There's no way I could read all that in three minutes.

BOSN: That's OK. Oh, I do have it. I'm sorry.

KEVIN HORN: It's pro-- it would have taken me--

BOSN: They passed them out at the same time, so I--

KEVIN HORN: It would have taken me six or seven minutes to read all that, and I respect the lights.

BOSN: Thank you very much for your testimony.

KEVIN HORN: Thank you.

BOSN: Safe travels.

KEVIN HORN: Thank you.

BOSN: Next opponent? Welcome.

DANYELLE BARATTA: Thank you. Good afternoon. My name is Danyelle-- Gosh, is there any way I can raise this chair up? Yes.

BOSN: I think so. But I don't know, from here I can't see.

DANYELLE BARATTA: I'll just sit forward. I apologize. My name is Danyelle Baratta, D-a-n-y-e-l-l-e B-a-r-a-t-t-a. I'm here to speak on behalf of Crystal Rhoades, the Douglas County Clerk of the District Court. She regrets being unable to attend today's hearing. As such, she sent me, her chief deputy, to testify in her stead. We oppose LB216. The Legislature should not consider any further measures that would reduce public accountability within the judiciary. Clerks of the district court are elected officials and should only be removed from office by a vote of the people. We serve as a crucial check on the power of the judiciary, and this check should not be removed without a vote of the electorate. The judiciary possesses sufficient independence. What is needed is a system of checks and balances which can only be maintained by an independent elected official to act as a record keeper and jury commissioner. Anything less would eliminate an

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

important check on judicial power. Several times judges have issued orders to our staff that violate the law or court rules. This compromises the integrity-- integrity of the judicial system. In one instance, a staff member from the AOC's office directed our staff to back-date a document, which is illegal and could impact the outcome of a case. This request was refused, avoiding a serious law violation with civil rights implications. Another example highlighting the need for elected clerks. The judicially appointed Board of Mental Health was not notifying patients of the date, time, or location of their hearings, appointing public defenders, or holding hearings with statutorily required timelines, all in violation of statute. However, because there was an independent clerk, these civil rights violations were corrected. There have been numerous occasions where judges have attempted to reassign clerk duties that are defined in statute. While this has been incredibly difficult to navigate, it is the job of the clerk to act as the independent record keeper and to ensure that the laws passed by the Legislature are not violated. If elected clerks are eliminated, these types of judicial abuses will occur without any checks or balances or hope of fairness or justice. Furthermore, this bill will not result, result in any true cost savings. The judges have little regard for costs. A better way to save money in the judiciary is to replace the justice, justice system, which is inadequate, inefficient and frequently broken. There have been seven prolonged outages in the last two months. Mandating e-filing for all judges and permitting clerks to e-file documents for self-represented litigants would significantly improved efficiency and would likely reduce costs by \$1.3 million annually in Douglas County. The justice system was also flagged by State Auditor Mike Foley as being a major fraud risk. However, as Mr. Foley stated in his January 16th email to the members of this committee, he's unable to force the judiciary to remedy the system as they are an independent branch of government. Another cost savings measure would be to phase out court reporters and replace them with software as they retire or leave their positions. Douglas County judges have directed us to continue a no bid contract at a cost of \$30,000 annually for a court reporter to come in and do 15 minute hearings for oral motions, rather than permit us to use software with an annual cost of \$500 per year. I urge you to prioritize the replacement of justice and to oppose LB216. Thank you.

BOSN: Thank you. Any questions from the committee? You have been here, I assume, the whole time.

DANYELLE BARATTA: Mm hmm.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

BOSN: There was a gentleman who testified about a pretty sensitive matter for a juvenile, that efforts were made to try to expedite that for the safety of the juvenile. You heard that testimony?

DANYELLE BARATTA: I did.

BOSN: That's concerning, right?

DANYELLE BARATTA: I would agree. And without specifics on the actual situation--

BOSN: Sure.

DANYELLE BARATTA: --it's hard for me to say specifically. I do think that it is probably convenient to have a singular, challenging situation brought up in relation to a bill that would adjust the court clerks for the entire state. Douglas County is the largest county in the state. We process a lot of cases, and to be quite frank, the justice system, the technology system that we're forced to use is nearly impossible to, to manage efficiently in any way shape or form. It's an incredible challenge. And then also utilizing that system along with-- alongside court rules, statutory requirements, and then state court rules, trying to manage all of that together is an absolute challenge. And then we are the largest county with the largest amount of cases coming through.

BOSN: And I certainly agree and respect all of that. I'm a former prosecutor, so I've worked with justice. I get it. It is the most awkward, clunky black screen green type--

DANYELLE BARATTA: Yes.

BOSN: --random codes for different things system. Obviously, that's not necessarily the judges' fault. Certainly not your fault, but it is the reality. I guess I think the concern here is, is that efforts were made to try to address that problem for that child. And it seems like, I mean, what is your system then, when it's an emergency custody order for things like-- and I'm thinking based on things that have recently transpired, for a protection order, for child custody issues, things like that, where time is of the essence. What is your office's general protocol for that, if you know?

DANYELLE BARATTA: Well, it depends on the specific item and then what the requirements are. And so, we have orders to accept anything that comes into our office that we are able to accept. To be honest, without knowing what the specific circumstance was, I couldn't say

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

what specifically caused it. But in general, we escalate as quickly as we can to leadership and process anything through that we are able to immediately process.

BOSN: OK. Any questions in light of that? Senator Storm.

STORM: Thank you. So how many employees are there under the district clerk in Douglas County?

DANYELLE BARATTA: Approximately 60.

STORM: 60?

DANYELLE BARATTA: Mm hmm.

STORM: And I wish Ms. Rhoades was here. I'd like to ask her questions, but--

DANYELLE BARATTA: I do, too.

STORM: What was-- I bet. What was her background before being elected?

DANYELLE BARATTA: Previous to this specific position, she was at the PSC, the Public Service Commission.

STORM: OK. And do they-- when you get elected and you get into this job, is there training that you have to go through put on by the Supreme Court? Are they training people, or are they--

DANYELLE BARATTA: To be honest, I came in as a second appointment as the chief, so I don't know exactly what her initial training was right after election. So I don't, I don't-- I can't speak to it specifically for her role.

STORM: OK. I just was curious if you're just throwing them in the fire and you have to figure this all out. OK.

DANYELLE BARATTA: I think it's six of one and half a dozen of the other. I think there's, there is some training, but I-- somebody else referenced the difference from county to county. So there are some differences, so if the state is providing that training, my guess is that it's standardized based on the state's requirements. But the county training is, or the county expectations are different based on judges orders and local rules.

STORM: That's what I was wondering, if there's any uniform training for this position. So. OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

BOSN: Any other questions in light of that? Thank you for being here.

DANYELLE BARATTA: Thank you.

BOSN: Next opponent. If those who are going to testify want to come up closer to the front so we can kind of keep things moving, that'd be great.

TRAVIS HOBBS: Good afternoon.

BOSN: Good afternoon.

Travis Hobbs, T-r-a-v-i-s H-o-b-b-s. I'm the Brown County clerk ex-officio. I am going to give the highlights of the letter that I have provided each of you with which is attached, along with the letter of opposition to LB16 [SIC, LB216] from a lot of constituents. The counties that have an ex-officio clerk for the CDC are the most rural in Nebraska. And according to the article that I cited, which was published by Nebraska Farm Bureau, rural Nebraskans pay the highest taxes per person in 2020. This is a topic of conversation wherever you go. Each budget year, the county boards hear the public dissent, and a problem that each of you senators have been asked to solve by your constituents. This is also the nerve that the Administrator of Courts Office are trying to strike with the local county commissioners and supervisors and the state senators like yourselves. The ex-officio counties are less populated and it is being sold to the boards that it will save on our budget. That is what everyone likes to hear. Unfortunately, that is not completely true. Since I was elected as the clerk ex-officio, I am responsible for the clerk, register of deeds, election, district court, and jury commissioner. The pay and benefits for my position does not alter if district court is taken by the state. The county still pays the court costs, jury fees, and costs associated with the jury, and court appointed, court appointed attorney fees, which is the bulk of district court budget. Brown County will save approximately \$4,475 out of the budget. This calculates to a levy rate of .00041382. On \$100,000 property valuation, the savings would calculate that out to \$0.41. However, the state operates off tax dollars as well, so the county savings would be paid to the state in a different tax. If you take the district a court away from-- if you take the district court away, what does Brown County and every other rural county lose? A guarantee that the court office is open to assist the constituents. Of the four counties surrounding Brown, one of them, Cherry, has a separate district court office. The other three are ex-officio counties. Of the four counties I am referring to, Brown, Blaine, Keya

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

Paha, and Rock, not one of those counties has a magistrate dedicated to only that county and they do not have the support staff to cover when they are in another county or out on personal leave. And let me be clear, it's not an attack on the state of Nebraska staff, it's just the facts. While the phones from the offices are forwarded to the magistrate and e-files can be accepted from their home court, they're physically in the office as follows: Keya Paha County every fourth Tuesday; Blaine County the last Wednesday of the month; Boyd and Rock counties are covered by the district court court reporter who attempts to be physically present in Boyd and Rock County one day a week for at least part of the day. But the day is not a set day, and they are present where the third Tuesday afternoon of the month for court. This-- It also seems reasonable that the court load of these small counties does not constitute having a person hired to be in that full-- office full time. Which brings me back to why our current system works for us. My office is open Monday through Friday, 8 a.m. to 5 p.m. excluding holidays. We are not sitting there waiting for, waiting for the next customer to come in. We are working on our other duties and when that individual comes in, we are readily available to assist them. Our offices are adequately staffed and we work efficiently completing, completing our tasks in a timely manner, meeting the statutory deadlines of each office. The simple fact is the state is trying to fix a problem that is not broke. In District 8, our remoteness creates its own set of issues that the judges, district court clerks, and court magistrates have navigated successfully.

BOSN: You can finish your concluding thoughts since I've already read them.

TRAVIS HOBBS: OK. We work together to ensure that our people are taken care of. Thank you for taking the time to hear my concerns.

BOSN: Thank you. Any questions for this testifier? Thank you for being here. I appreciate that and the information that you provided. Next opponent? Welcome.

ANTHONY STRAWN: Good afternoon, Chairwoman and Senators. My name is Anthony Strawn, A-n-t-h-o-n-y S-t-r-a-w-n. I'm a business representative for the International Union of Operating Engineers Local 571. I'm here-- we represent the clerk of the District Court employees in Douglas County. I'm here to testify as an opponent to LB216. While the intent of LB216 to promote a unified Nebraska judicial branch is commendable, there are several concerns and potential drawbacks to consider. Loss of local representation. Transitioning clerks of the district court positions from county

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

funded elected offices to state funded position could reduce local representation and accountability. Elected clerks are directly answerable to the local electorate, ensuring that community's specific needs and concerns are addressed. Administrative challenges. The consolidation of duties and the transition of employees from county to state positions might lead to significant administrative challenges. This includes potential disruptions in court operations, adjustment in employee terms, and the need for extensive retraining and reorganization. Community resistance. Local communities may resist the changes due to a perceived loss of control over their judicial processes. This could lead to dissatisfaction and a lack of trust in the new system. Potential cost implications. While the bill aims to streamline operations, the initial transition could incur significant costs related to restructuring, training, and integrating a new administrative system. I believe the fiscal note was for 2025-26, was \$1.009 million, and goes to \$12.728 million in '26-27. Impact on service quality. The consolidation of duties may strain the resources and capabilities of clerk magistrates, potentially affecting the quality and efficiency of services provided to the public. I would like to discuss the potential impacts of LB20-- of LB216 on the dedicated members of the clerk of the district court in Douglas County. This bill proposes significant changes that would negatively impact our hardworking court clerks. First and foremost, LB216 eliminates the elected position of district court clerk and consolidates duties under a new role, role called clerk of the district and county courts. This transition brings uncertainty and anxiety about job security and future roles. Our clerks, who have served with dedication and integrity, deserve clarity and stability in their careers. Secondly, the bill mandates a transition from county to state employment. This shift could lead to concerns about changes in workplace culture, management, and job expectations. Our clerks should not have to worry about their professional environment during this transition. This will also have a negative impact on their wages, retirement benefits, and insurance benefits, as IUOE has fought for years to ensure clerk of the district court staff are compensated fairly. Furthermore, the consolidation of duties could result in increased workload and responsibilities for the remaining staff. The added pressure may lead to stress and burnout affecting the well-being and efficiency of our clerks. It is crucial-- I'm out of time.

BOSN: You can finish your thoughts.

ANTHONY STRAWN: It is crucial that we keep autonomy and to ensure the effectiveness of our clerks and the work they do and the communities they serve. The bill requires counties to provide appropriate office

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

space and facilities. If these provisions are not adequately implemented, it could impact working conditions and efficiency of our court clerks. We must ensure the office of clerk of the district court continues to be an elected position and is chosen by local elections to serve their community in the capacity that voters see fit. In conclusion, LB-- while LB216 aims to streamline court operations, it is essential to consider the potential adverse effects of the staff of the clerk of the district courts. I can take any questions that you may have.

BOSN: Thank you very much. Thank you for being here. Any questions from the committee? Senator Hallstrom.

HALLSTROM: I haven't formed any opinions on the bill. I'm just trying to learn along with everybody else, I guess. If, if you are still the clerk of the district court and it's a difference between being elected to serve in that capacity versus being appointed in that capacity, explain to me how you would see it working or operating any differently.

ANTHONY STRAWN: So I represent the employees, and what I'm worried about is the benefits that they're going to lose. So that's what I was trying to make clear. Maybe I touched a little more on the clerk of the court position more than I, more than I should have. But my point is, is that these people have pensions that they've been paying into for years. And if you go from what they have as a defined, defined benefit to a defined contribution that the state offers, which is a cash balance system of 5%, you're taking away a huge benefit that they've already been paying into, and it's going to adversely affect the 60 employees that are at Douglas County. And that is, that is unfair for anyone. If you're told when you get a job that, hey, we're going to give you this defined benefit and we're not going to change it as long as you keep doing a good job, and then all of a sudden there's a state statute that comes out that says, hey, guess what? You're going to be a state employee. We're dropping your benefits. I mean, that, that's, that's a pretty devastating blow to somebody that's given you 25 years in a job, getting ready to retire and completely losing that benefit.

HALLSTROM: OK.

ANTHONY STRAWN: Now there's a ten year vesting. I'm sorry.

HALLSTROM: And the other aspect would be, and I think one of the, one of the witnesses, I probably should've asked him, but one of the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

witnesses suggested that Governor Pillen's indicated there's a \$432 million shortfall, and why would we want to take on more responsibility? Well, what, what I hear on the campaign trail and otherwise, is that the people at the local level want property tax relief. And to provide state funding for that purpose is something that they're interested in.

ANTHONY STRAWN: Sure. And I can't say that, that's not something that is weighing on every voter's mind, but I just find it-- trying to take somebody's benefit that you told them they would get because you want to save, you know, some money. I don't know if the cost saving, I think somebody was saying the cost saving was pretty minimal. And, and I just, I just feel that when you do a job for any amount of years and you get vested in it, you expect that benefit to be there. And if it's not, you change it in the middle-- we're changing the rules right in the middle of the game.

HALLSTROM: OK. Thank you.

ANTHONY STRAWN: So.

BOSN: Any other questions in light of that? Thank you very much for being here.

ANTHONY STRAWN: Thank you.

BOSN: Next opponent.

JANET WIECHELMAN: Good afternoon, Chairperson Bosn and committee members. I am Janet Wiechelman, J-a-n-e-t W-i-e-c-h-e-l-m-a-n. And I'm here representing the Nebraska Clerk of the District Court Association, and I also am the clerk of the district court for Cedar County, Nebraska. As indicated prior from the previous speaker, Ms. Mulbery, our association is in opposition to LB216. Since there are new committee members, I have provided in the packet information a bit of history about the bills in which the Supreme Court has brought to the eliminate the clerk of the district court office, or transfer us to the state system. This particular bill, LB216, is somewhat mirrored on LB414, which was introduced in 1999. The bill had been negotiated with Senator Beutler to provide the concerns that were raised by the clerks of district court then. It was ultimately vetoed by Governor Johanns. However, 34 years have passed and the court system has changed and our association continues to be in opposition to it. In the packet, you will find letters of opposition coming from county boards, from clerks of the district court who are not able to be here,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

and from other elected county officials. A set, a group of clerks of district court has met with Corey Steel and Amy Prenda with the Court Administrators Office. We have discussed some of the concerns we have in the legislation, and my letter, six pages long, does identify more than what was addressed with him. One of the issues identified was sections six and seven, where we believe there's a little bit inefficiency in the wording as far if a clerk of district court should retire, retire prior to the date of January 7th, 2027, and how it would affect them after January 7, '27, I was told an amendment would possibly be coming, but it is not here, so that is still a concern of ours. County court and district court is similar, but yet there are different. Many of the letters describe the minute functions of the clerk of district court, and in with that are a lot of education [INAUDIBLE]. As required, when a new clerk-- a district court, a new employee comes in, education is required, and that education is learning and understanding the justice system. And we have continual education dealing with changes of statutes, change, such as protection orders that changed a couple years ago, and other different things. So we're continually getting education, which is provided by our Committee of Clerks of District Court, and with the Administrative Office, Office of the Courts. One of the things we have is the-- where the transition occurs with effects ex officios. 28 counties will be moving as of January 1st, 2026 over to the state system. Yes, ten cour-- counties have already transitioned those duties. They were done one at a time. We're talking about 28 now being transferred in one year's time. The education done just to understand the district court functions, since they are, again, somewhat similar but different, we have concern whether or not the education can be done fully or whether or not come January of next year, if this bill is passed, the additional resources going to be used by the AOC to deal with the education needed. Another concern we have is in Section 9. Basically it says review a subsequent reduction of staff for consolidation of appropriate office spaces. And I am out of time.

BOSN: If you want to wrap up your thought, you're OK.

JANET WIECHELMAN: OK. Our concern is, is this referring to the effect of dated January 7, '27, or at any time? If you could review the personnel rules of the Nebraska judicial branch, there's provisions for furloughs and layoffs. Therefore, is the reduction of staff only for transferred clerks of district court and their employees? Or is it for all employees of the Nebraska judicial branch? If it is just the clerks of district court, we're really hoping that would be viewed as a whole, all employees underneath the Nebraska judicial branch, and be viewed as determined on their work performance. Secondly, we have

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

concern to you as the Senators of the Unicameral. Our concern is, yes, we believe the next five, ten years there probably will be attrition as some clerks of district court retire, clerk magistrates retire, employees retire. But if we're not to where you consider us to be in that time frame, and there is in fact a reduction in appropriations, which has happened in the past, are we as clerks of district courts, since we're newly to the Supreme Court in the judicial branch, are we the ones who could be considered part of the reduction and review? That is our concern. As far as the fiscal note, yes, it is low, but we have concerns. You'll see it in the sheets that I provided. I went through all the budgets of the counties and brought in what's item-lined as salaries only. It's not the benefits. Whether or not the fiscal note actually is appropriate to cover the benefits, including the benefits. Also, I've included what the se-- office expenditures for county court and district court throughout the last couple of years, you'll see the district courts actually come in lower than the operating expenses of county courts. If you want to talk tax savings to the counties, what are the unfunded mandates to the counties? I will tell you, it's court appointed attorneys' fees, public defenders, court costs the counties pay in which we don't get reimbursement back. It is the juror fees and expenses. Those are high ticket items that a county cannot-- you can't predict when a county may also be subject to a high increment of that. You have a crime that's been committed, multiple defendants. So therefore, the public defender could only represent one person, and you having to contract for the court appointed counsel for the rest of it. In Cedar County, we had a quadruple murder occur. So therefore, we were able to get the Public Ser-- Public Commission to come in and deal with the one defendant. But the other one, we've had to hire local counsel at a high cost. We've had one jury trial which we moved to another county. More resources were needed to do that. Yes, we adjusted our budget. Other areas were cut. We had to do it because that's what's required of Cedar County to provide for that jury trial. If, if the committee is interested, I'd be willing to gather information what those costs are to the counties when we talk about the unfunded mandates.

BOSN: I'm going to have you kind of wrap it up if you can.

JANET WIECHELMAN: Thank you.

BOSN: Yep.

JANET WIECHELMAN: I guess if, if the state can only support so much, and if this is not going to be included in the additional resource, additional 200-some employees that's predicted, we would ask that we

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 13, 2025

remain on the county level. Because it is only a small portion when you talk property tax and I've included my tax statement at-- along with the percentage of what my salaries and office expenditures are. I would ask the committee to keep this bill in committee. Thank you.

BOSN: Thank you very much. Let's see if there's any questions from the committee. Any questions for this testifier? Thank you very much for all the information.

JANET WIECHELMAN: Thank you.

BOSN: Next opponent? We'll move on to neutral testifiers. Anyone here to testify in a neutral capacity? All right. Well, Senator Holdcroft is not here, so I will assume he's waiving. And I will note for the record that there were 4 proponent comments submitted, 30 opponent comments submitted, and 1 neutral comment submitted. And that will conclude our hearing on LB216, as well as our hearings for today. Thank you very much.