

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 15, 2024
Rough Draft

BREWER: Good afternoon, and welcome to the Government Committee. My name is Senator Tom Brewer, representing the 43rd Legislative District of western and central Nebraska, and I serve as Chair of this committee. Committee will take the bills up in the order that they're posted on the agenda today. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on proposed legislation before us. The committee members may come and go during the hearing. It's just part of the process, they have bills to introduce in other committees. I ask you to abide by the following rules. First, please silence or turn off any of your electronic devices or phones. Be aware that some of the senators will be using computers or electronic devices. Some of that's to research, some of it's find out when you have to be at the next committee you need to be in. We're going to ask that as the bill that you're going to be speaking on comes up that you move forward. The introducing senator will make the initial statements followed by proponents, opponents, and those in the neutral, and then closing remarks are saved for the introducing senator. We're planning on using the light system here today. You'll all have three minutes, the green light will be on for two, amber for one, it'll go to red. And in case you're not paying attention when it goes to red, there'll be an audible alarm. When the alarm goes, you're done. If you wish to testify today, we're going to need you to fill out one of the green sheets, clearly, so that we can read it, and completely. If you don't turn in a green sheet, you don't get to testify. If you're here today and want to have a record of it, but do not want to testify, you can fill out the gold sheets on, on the table at back, and then that will become part of the official record from the hearings today. If you have handouts, we're asking for 12 copies of handouts, and the pages will make distribution on them. When you come up to speak, we ask that you state your full name, and your-- then spell the name so that it goes into the record. Let's see. How many in the room plan to testify today? All right, well, we should be-- we should be good. We ask that no displays of support or opposition to bills, vocal or otherwise, will be allowed in the audience during a public hearing. And we will go ahead and kick off with introductions on my right with Senator Sanders.

SANDERS: Good afternoon, Rita Sanders, Bellevue, District 45. Welcome.

AGUILAR: Ray Aguilar, district 35, Grand Island.

LOWE: John [COUGHS] John Lowe, District 37, Gibbon, Shelton and Kearney.

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HALLORAN: Good afternoon, Steve Halloran, District 33, which is Adams, Kearney, and Phelps County.

BREWER: Dick Clark is the legal counsel for the Government Committee. Julie Condon is our committee clerk. And our pages are Cameron, raise your hand there, he is a political science major and history, senior at UNL. And he is from Omaha. And then, Kristen, and she is a political science major, senior at UNL, and she is from North Platte. With that, we'll invite up our first testifier. John, welcome to the government committee.

J. CAVANAUGH: Good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. My name is John Cavanaugh, J-o-h-n-C-a-v-a-n-a-u-g-h, and I represent the 9th Legislative District in Midtown Omaha. And I'm here today to introduce LR287CA. LR287CA is a proposed constitutional amendment that would require the state to compensate political subdivisions when the Legislature reduces or eliminates any locally imposed source of revenue. The amount would be based upon a five year average of the receipts, and would be adjusted annually based upon the change in consumer prices. I introduce this constitutional amendment on behalf of NACO as part of the discussion on property taxes. This year, counties are facing legislation to eliminate inheritance tax and to cap property taxes. These are the primary sources of funding for counties. In fiscal year '23-24, counties received-- or '22-23, counties received nearly \$100 million in inheritance tax. LB107 would phase out that revenue stream by 2028. No county responsibilities would be eliminated. Counties would be asked to provide the same function, but with \$100 million less revenue and minimal replacement revenue. At the same time, the Governor is proposing property tax caps on counties and cities. The pac-- the package proposes a state age-- aid mechanism that would be funded by increased sales tax. This aid is statutory, so the Legislature that gives can also take away. This constitutional amendment, if approved by voters, would eliminate that uncertainty. It would require the Legislature to replace any locally generated revenue. LR287CA would ensure that political subdivisions have the funding they need to provide the services we require of them. I'd be happy to take any questions, but the folks behind me might be better equipped to answer them.

BREWER: Well, maybe, maybe a quick question, John. If, if, if you were to take a common example of how this would apply to the county in a way so we can kind of visualize the impact. You talked about inheritance tax, that's a give me, property tax, a little broader, but

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what would be something that we would eliminate besides those two that might be affected?

J. CAVANAUGH: Well, you could certainly eliminate-- this Legislature could eliminate local option sales tax. It's another tax. And I-- and I think this would apply to not only the elimination, but also the curtailment of the ability to, to raise that revenue. So by like, say, cutting it in half or decreasing it as well.

BREWER: OK. All right. Let's real quick we got questions. Questions for-- yes, Senator Lowe.

LOWE: Thank you. If we get rid of the inheritance tax, would this then make up the difference?

J. CAVANAUGH: Well, I suppose, assuming in your hypothetical that we've adopted this and then we eliminate the inheritance tax after that. Yeah. So my understanding of how this-- that would be implemented is you use that-- \$100 million is what the counties were bringing in, and, and say that's the five year average, then the state would be obligated under the constitution to pay that to, to the counties, to to make them whole for what they would lose under that scenario. I think if we eliminate the inheritance tax before this were adopted, I don't think the state would be on the hook for previously eliminated taxes.

LOWE: All right.

BREWER: Running a little along those lines, so would the county then provide like a five year average on what they received in inheritance tax? Because that probably spikes, you know, depending on who dies and when they die. So how would you figure what that would look like, the compensated piece of it. Just, just say an inheritance tax so we can narrow it down.

J. CAVANAUGH: And, and probably somebody behind me might be better to, to speak to how the counties calculate that. But my read of it would be just what they had taken in in the previous five years. What-- when it goes-- when the elimination would go into effect.

BREWER: OK. All right, we'll grill them instead of you. All right. Any other questions for-- All right, Senator Cavanaugh, thank you for that and will you stick around for close?

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J. CAVANAUGH: I will, unless I might have to go-- depending on how many testifiers we have, I might have to go to Judiciary and introduce, but I'll stick around if I can.

BREWER: OK. Thank you. All right. We will start with proponents to LR287CA. Jon, welcome back to the Government Committee.

JON CANNON: Thank you. Chairman Brewer, members of the Government 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 today in support of LB-- LR287CA. Definitely want to thank Senator Cavanaugh for bringing this on behalf of NACO. A friend of-- a common friend of ours, said that he always likes redheaded lawyers named John C., and, so certainly that affinity exists, and I'm-- I will-- I will make use of that any chance I get. I am also reminded-- I'll also speak quickly because I'm reminded that you said when it gets to red, you're done. And if there is any one, one person in the Legislature that says you're done and means it, I think that would be Chairman Brewer. So this bill, LR27CA, is of a piece with a bill that you'd heard last year, LR1CA brought by Senator Carol Blood, and this is really more on the revenue side of things. For LR1CA that is-- that addresses unfunded mandates. If there's a service that the state pushes down to the counties that we're required to provide, then the state has to fund those. We would essentially eliminate unfunded mandates. That's the service side of things. This is really more on the revenue side of things, because, again, there is a mix of services that we gladly, willingly provide to our constituents. They expect it, and the reason they expect it is because the Legislature has told them that they can expect it. So we have a limited source of revenue that we can use in order to fund those, those necessary services. And because of those limited resources, when one is taken away, then it automatically is going to lead to an increase in the remaining revenue streams that we have, which for us is primarily property taxes, or it's going to lead to a deterioration or elimination of certain services within the county. And there, there's not much more to address than that. It's a simple piece of-- it's a simple piece of, of addition to the constitution. But I would urge your support for LR287CA. I'm happy to answer any questions that you may have, and I, I understand there may be a couple.

BREWER: All right. Thank you. On the issue of the inheritance tax, that is a amount that varies, I assume, considerably each year and by county and, and what happens within the county.

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JON CANNON: It can, sir. For larger counties, you know, the big-- what I refer to as the big five of La-- Douglas, Lancaster, Sarpy, Hall, and Buffalo, the law-- of the law of large numbers means that they can fairly well estimate what those numbers are going to be on a year to year basis.

BREWER: And that's just kind of a track record over a number of years.

JON CANNON: Sure. And you know, you can say the mortality rate within the population is x and the average size is going to be some y, and we multiply the two together, and that tells us about what the receipts will be. The reason that we had put in a five year average of receipts is because that really tends to smooth things out so you don't have the spikes going across time. A, a five year average is generally considered a reasonable means of estimating what the loss of a particular revenue stream would be. And so that's why we put that in there.

BREWER: And you've done a query of your counties to kind of get feedback from them on the impact, because I think of of my eleven counties, nine have got ahold of me and said, hey, inheritance tax, we don't necessarily depend on it, but we use it, whether it be replacing blades on a road grader, or tires or whatever, it kind of becomes that fund they go to for the things that need done but aren't necessarily essential.

DICK CLARK: Sorry, Boss.

BREWER: That's all right. Don't ever do it again. Is that kind of how you see it?

JON CANNON: So, you know, to the extent that we're referring to the inheritance tax specifically, it really depends on the county. I, I-- for instance, Lancaster County, the inheritance tax fund goes immediately into the general fund and therefore buys down the levy. A number of counties, they'll have it as an emergency fund of sorts. And so as a, for instance, the snows that we had recently in Nebra-- across Nebraska, there are a number of them that diesel fuel ran out, and so they dipped into the inheritance tax fund so they could send a truck down to McPherson, Kansas and bring back a whole bunch of diesel fuel. To replace a, a snow plow. I know that, if I recall correctly, Madison County had a snowplow go out. They dipped in the inheritance tax fund so they could go pick that up as well. And so it's really going to depend on, on the county. But what-- the bottom line,

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however, is that with the inheritance tax, the inheritance tax will pay for things that otherwise would be paid for through property taxes. And so, when you look at the, the county financial posture, it's, it's, it's really one big pot of money. It just depends on, on where it comes from. And so if the inheritance tax goes away, either something has to, to, you know, be increased in order to make up for it, or services just aren't going to get done.

BREWER: All right. Let's see if we don't have some questions here. Questions? All right. Thank you.

JON CANNON: Yes, sir. Thank you.

JULIE CONDON: Thanks, John.

BREWER: We'll, we'll probably reload for the next guy that comes up. We don't want to expend too much ordnance on you. We got to save some for others here.

JON CANNON: Well he-- this is the right one.

BREWER: All right.

MARK SCHOENROCK: Wow.

BREWER: Wow, welcome back to the Government Committee.

MARK SCHOENROCK: Chairman Brewer. Good to see you again. Fellow members of the Government, Military and Veterans Affairs Committee, my name is Mark Schoenrock, M-a-r-k S-c-h-o-e-n-r-o-c-k. I was born and raised in Jefferson County and served our country as an officer of the United States Army in a long career. And upon returning home to Nebraska, I failed in retiring and became a county commissioner. I'm going on my ninth year as a commissioner, three of those as county board chairman. I also was elected to serve as the Nebraska Association of County Officials, southeast area director, representing the 17 counties of southeast Nebraska. In all my service, like many of you, I've always tried to do the right thing that would best serve our citizens that we as elected servants of the people represent, and to serve liberty and freedom. It's a sacred trust that we share with each of you here today. And I know all my county officials who across the state, we share that trust. On behalf of all Nebraska elected and appointed county officials, we would like to thank Senator Cavanaugh for introducing this legislation-- this legislation. In the heart of LR287CA contains critical language that would replace lost revenues to

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us counties depending on what track structure is implemented here at the state level. I've got the actual verbiage there in my testimony, which you can read. When I campaigned for reelection last year, I knocked over 1,000 doors in my district, and the overwhelming message from my constituents was that although they would prefer a reduction in their taxes, they do not want the critical services provided by county government to be cut. Now, I'd like to give you an example of that. With the terrible snowstorms that we had in January, we kept people in our county shop overnight. That's so they could go out and clear roads. It's one thing to have that eight inches of snow in Lincoln. It's an entirely different things to have eight inches of snow with 30 mile an hour wind and 30 degrees below zero windchill. We're glad that we had them on duty that night, because they had to go out and clear the road for an ambulance to go out and get somebody in the middle of the night. They probably saved that person's life. The cost of all inputs required for the administration of county government have increased significantly in the last three years. The 93 counties in Nebraska county government must procure all of these to provide the essential services to our citizens that reside in county government. I know many of our county boards across Nebraska, and I believe that we're fiscally prudent, responsible managers of our respective county budgets. We strive to operate efficient operations and take our responsibilities very seriously to manage the revenue provided by our fellow Nebraska taxpayers. If the source of revenue needed to provide these services is cut, Nebraskan counties would have no choice but to cut essential services as our sources of revenue would be eliminated or reduced. Our citizens do not want less law enforcement, less road maintenance and infrastructure, less ambulance service, and all of the other critical services provided by county government. Please support this resolution and thank you to each of you for your service here serving our fellow citizens. And I'd be happy to take any questions.

BREWER: All right. Thank you, Mark. Let's see if we have questions for you. Questions? Questions? All right. Well, you must have done a pretty good job.

MARK SCHOENROCK: Chairman Brewer, can I give you just one quick example of how--

BREWER: Yeah.

MARK SCHOENROCK: --that tax cut would affect us? So in our county, our average five year revenue from inheritance tax the last five years has

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been about \$650,000. And that equates to about three points on our levy. And so that's just an example, and it's fairly representative of most of the rural counties across the state. They vary a little bit, but it's going to be somewhere of that, about 10 to 12% of our budget, that comes in from inheritance tax. It's a little different for the larger counties like Lancaster, or Douglas, Sarpy, etc.. But that is a fairly significant part of our budget. And we do try hard to be good managers of our budget. Just an example. Recently we deferred the purchase of a road grader. The new road grader these days, believe it or not, cost \$450,000. So that's a significant cut in our-- in our budget. And we deferred getting a new one just to try to keep our levy down, but you can only defer decisions like that so long, and then you get in the position where you've got a really old fleet and then you've got even worse problems. So you have to manage that, so you keep your fleet renewed somewhat. We don't have all new equipment, but we don't have all old equipment either, because that could be a really serious position to be in to provide those services to our citizens. So it's, it's a balancing act, and I think our county boards across the state, they do a good job of managing that.

BREWER: No, I mean, you guys have the challenging job of balancing the checkbook and making sure everything keeps going. And, and that's, that's not easy, especially if the variables that go to the checkbook change, but the requirements don't change. There's a point your delta becomes that part that becomes next to impossible to manage because you just don't have enough.

MARK SCHOENROCK: You don't. And there is a-- there is an expectation, Senator Brewer, on the part of our citizens for those services to be there. Right now, I've been getting phone calls, why aren't the road graders out there getting the gravel graded? You know, the, the roads took a beating during all the bad weather in January, and we're trying to get caught up with that. And we can't get gravel right now because gravel pits aren't open, and so we're going to be behind the power curve for quite some time. But the point is, the expectation of our citizens regarding those services provided by county government is very high, and we have to have the needed resources to provide those services to them.

BREWER: No, we're struggling with some of the same things, where we have bridges that there just is not the money to replace the bridge, so we literally--

MARK SCHOENROCK: Yeah.

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BREWER: --blocked the road. And that, that mile there, you know, if you happen to live on it, and you, you get to commute back and forth, but that's not a road that's used for traffic anymore, and--

MARK SCHOENROCK: Exactly.

BREWER: --you know, and a bridge is just unreasonably high.

MARK SCHOENROCK: Oh, yeah. I've got one-- I've got one mile in Jefferson County we're trying to place. It's a paved road, it's got two bridges on it. It's a \$4 million mile, two bridges and paved road for one mile. And we're going for a grant for that with the U.S. Department of Transportation. I'm working with Senat-- Senator Fisher and Congressman Smith to try to get some federal funding for that. But that's just one example. And here in the eastern part of the state, we've got a lot of those bridges. So it makes for a very infrastruc-- very expensive infrastructure to maintain. Going further west, you know, we don't have so many bridges, but still it's expensive for those counties as well.

BREWER: All right. Well, thank you for your testimony. And thanks for making the trip up here.

MARK SCHOENROCK: Thank you. And thank you to each of you for, for your service here. Definitely appreciate it. Thank you.

BREWER: All right. Additional proponents to LR287CA. Welcome to the Government Committee.

GARY MIXAN: Well, thank you very much. I appreciate that, and I'm getting a little older, so if you can hold the grilling down I would really--

BREWER: Sure.

GARY MIXAN: --appreciate that. I want to thank you, Senator Brewer, and everyone on this committee, and Senator-- Senator Cavanaugh. I'm going to be very brief with an analogy that I've kind of come up with thinking about all this formulating--

BREWER: Could you spell your name for us?

GARY MIXAN: OK. Gary Mixan, Gary, m as in Mary, i-x-a-n. I usually get mixed up with Nixon. Also a Sarpy County board member. And I just want to use the analogy of why I'm looking at this and thinking, this is a

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great amendment that is needed. And my analogy is that everything flows from the Unicameral, from the Legislature. We are an extension of the Legislature. And I look at it that you're the administrators, legislators, and we're the operations, and we all need to work together. And in working together, looking at the revenue and expenses, both sides of it, and especially on this bill, obviously, if, if any revenue is taken away from us, that it's, it's very hard for us to do anything other than it goes back to property-- on the property taxes. You had made the comment regarding how much for Sarpy County. Sarpy County is, for the inheritance tax over the last five years, averages \$3.8 million that we've received. And again, that loss would just go back on to the taxpayers. So we're trying to provide all the services, our bottom line client is our taxpayers, and we are trying to do everything as best as possible and-- with keeping costs down, etc.. So again, I think this is a great effort where we can work together, where we're looking at whether revenue is being taken away or additional services are being required for us to fund, and we just need to be able to work with you as well. Thank you.

BREWER: OK. Thank you, Gary. So \$3.8 million. That's of-- how big is your total budget? Ballpark.

GARY MIXAN: I had that information. I'm sorry. I. I don't have that.

BREWER: That's all right. I was just going to, kind of just out of curiosity, look at the ratio and all. All right, questions for Gary.

CONRAD: Thank you.

SANDERS: Thanks for being here.

BREWER: All right, well, thanks for coming in and testifying.

GARY MIXAN: Thank you.

BREWER: All right. Next proponent, LR287CA? Welcome to the Government Committee.

DEB VanMATRE: Good afternoon. Senator Brewer and members of the Government Committee, my name is Deb VanMatre, spelled D-e-b v-a-n-M-a-t-r-e. I'm the mayor of Gibbon, and the president of the League of Nebraska Municipalities. I'm testifying in support of LR287CA on behalf of the League, as well as the cities of Lincoln and Omaha. We thank Senator John Cavanaugh for introducing this important proposed constitutional amendment to require the state to compensate

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political subdivisions for any locally imposed revenue source that is reduced or eliminated by the Legislature. We believe it is reasonable to provide such compensation for the reduced or eliminated revenue based on the average of receipts of the reduced or eliminated revenue source in the five years immediately preceding the legislative action that reduced or eliminated the locally imposed revenue source. Municipalities need locally imposed revenue sources such as occupation taxes and local option sales tax, which are critically important to fund services, including but not limited to public safety services, emergency services, infrastructure such as streets, water and wastewater systems, economic development programs like LB840 plans, as well as libraries, parks, and recreation centers. A loss of any locally imposed revenue source would have a significant impact on our municipal operations and ability to provide services to our citizens. Please advance LR287CA to General File. Thank you for your consideration. And are there any questions?

BREWER: All right. Thanks, Deb. Let's see if we've got questions for you. Questions?

SANDERS: Thanks for coming

BREWER: Questions? All right.

CONRAD: Thanks for making the trip.

BREWER: Yes, Thanks for making the trip. OK. We are still on proponents to LR287CA. All right. We will then transition to opponents. Well, that's a good sign, John. All right. Anybody here in the neutral on LR287CA? We will invite Senator Cavanaugh back to close.

J. CAVANAUGH: Thank you, Chairman Brewer, and thanks, members of the Military and Veterans Affairs Committee. Well, no opposition here. So it seems like this is a consent calendar bill.

BREWER: It's close.

J. CAVANAUGH: I just-- so-- looked up, looks like Sarpy County's budget in 2024, projected budget, is going to be to \$272 million. So we're talking somewhere between 1 and 2% or something like that of their budget would-- accounted for the inheritance tax. You know, obviously, what this-- we're talking about here is a constitutional amendment, which means it would be ultimately up to the voters if they decide that this is something they want to do. We're just asking for

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the opportunity to go in front of the voters and make the case that, if the Legislature decides to take away some ability of a local entity to raise their revenue, that the community that the citizens of Nebraska live in are able to continue with the services that you heard about here today. So I don't really need to add anything else to that. I think everybody else here did a better job than I could have explaining it. So I'd be happy to take any further questions.

BREWER: Well, you did a pretty good job, but it's kind of their calling in life to explain their situation, so. All right. Let's see if we don't have some questions for you, John. Questions? Yes.

CONRAD: Yeah, I--

BREWER: Senator Conrad.

CONRAD: Thank you, Chair Brewer. And thank you, Senator Cavanaugh, for bringing this forward here. And we had a great hearing. And I'm just-- I'll look forward to following up with folks afterwards, just to see how this interfaces with the measure we advanced for Senator Blood a little bit more last session, just so that I have a clear understanding about how, what's different, how they work together, if there's a priority or benefit to having one go but not the other. But we-- that's conversations that we can have off, off the record. And I just wanted to kind of put a marker down here. The other piece I was just going to say, and thanks for cleaning it up during the, or noting it during the, the, the closing on your measure. But we've all been on the mic before and trying to grab one of those facts that we have otherwise rather readily available in our head, and it just eludes us at the moment. So, we know that you're knowledgeable and hardworking for the, the work that you do in Sarpy County and, and appreciate you bringing that forward.

J. CAVANAUGH: Thank you.

BREWER: All right. Anyone else? I need to read in here before we wrap things up.

J. CAVANAUGH: Thank you.

BREWER: You had five proponents, only one opponent, and no one in the neutral. And with that, we will close out our hearing on LR287CA, and we'll reset for LB951. Senator Linehan, welcome back to the Government Committee.

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LINEHAN: Frequent flier. Good afternoon, Chairman Brewer and members of the Government Committee. I am Lou Ann Linehan, L-o-u A-n-n L-i-n-e-h-a-n. And I represent Legislative District 39, Elkhorn and Waterloo-- Waterloo. Today I'm introducing LB951. During my time in the Legislature, I've advocated for government accountability and transparency to voters. Last year, I began working on a bill to bring accountability to private meetings where government officials are making and discussing policy decisions. These meetings are not required to be announced to the public. If a group of high level government officials are going to have private meetings and make decisions on policy, then that meeting needs to be open to the public. The requirements of LB951 are essentially the same as the Open Meetings Act. The only difference is the distinction between what meetings are and are not covered under this bill. A private meeting will be covered under this act if the majority of the board members are public officials and are part of the upper management levels of their respective public political subdivisions. The governing board is one that sets policy, makes decisions for, or supervisors entities. The private meeting can host a closed session if the majority of the board votes, while in open session, to close the meeting for the following reasons: strategy sessions, sessions for bargaining, real estate purchases, pending or imminent litigation, discussion regarding security procedures or personnel, discussion of trade secrets, to protect the reputation of an individual during an evaluation of a job performance. Any member of the board can challenge the continuation of the closed session if they believe that the session has violated any of the previously listed criteria. These meetings must record minutes and have the minutes available-- publicly available. The board must also make reasonable accommodations for the public to attend the meeting virtually or in person. To clarify, if LB951 will not apply to chance-- will not apply to chance meetings or attendance at conventions or workshops. This bill is only intended to apply to meetings where decisions on policy are made concerning matters that the board has supervision over. For example, a group of superintendents that determine what education policies to pursue in their group of schools. If a person violates this act, they will be subject to a fine of \$10,000. The Attorney General or county attorneys may enforce this act, and any resident in Nebraska may commence suit for violations of this act. Lastly, any person who knowingly violates this act will be guilty of a class four misdemeanor for the first offense, a class three for subsequent offenses. I believe our citizens have a right to know what public officials are planning and making decisions on. If high level officers are making decisions behind

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closed doors, the pub-- well, they should-- just shouldn't. I-- we, we spend a lot of time in the Legislature being open to the public. We, we have hearings. Our floor is open, our debate is broadcast, people get to listen, they can call us out into the lobby. We even have the press. And I know there's disagreements about this, but I have always thought that the press should be in Exec Sessions. And now-- I'm kind of shocked, really, by the number of people who said this isn't OK. Public meetings should be public. Public elected officials or officials, high paid government CEOs, should have public meetings. Thank you.

BREWER: All right. Thank you Senator Linehan. Let's see if we have questions for you. Senator Lowe.

LOWE: Thank you. I had-- a fellow I was talking to the other night just sent me an email, and he just wanted some clarification, so he didn't see any problems, but somebody had some concerns. So he asked me if the board in question must meet all the criteria or just one of the criteria in order to be required to follow the open meetings act.

LINEHAN: I would think just one of the criteria, but I'm-- look, I am not on the Government Committee, so I could-- I could be confused on the details. My point is that public meetings should be public. I don't know if this is-- I doubt any bill's perfect, and I'm-- I'm not-- this isn't what I focus on, so this could be imperfect. But whatever we can do to make sure the public is not-- things are not going on behind closed doors where the press isn't involved. There's no-- it just needs to be open.

LOWE: Thank you.

LINEHAN: Um-hum.

BREWER: So Lin, do think that there are certain parts of government that maybe are more guilty of not being as transparent as they should be, or is this generally just trying to make sure that it doesn't happen? Do you think there are things happening currently?

LINEHAN: I think it's-- I, I do think there's a lot going on that's not public. I mean, it is disturbing to me when you go to school board meetings, frequently city council meeting, other meetings that they read-- there's no discussion. Like they're talking. There's not-- they're talking somewhere. They're not going into the meetings all

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know how they're going to vote when they get there, and there hasn't been meetings before the meeting.

BREWER: Check.

LINEHAN: I mean, are, are-- we take a lot of slack. We're not very popular compared to other boards. But part of that is because people get-- they actually see what we're doing. Everything we do is very, very public. That's the way it should be.

BREWER: OK. Other questions? Senator Conrad.

CONRAD: Thank you. Chair Brewer, and thank you, Senator Linehan, for bringing this forward. And, you know, this is an issue that we do hear about frequently in this committee, and it's an issue that, you know, I've been particularly frustrated about for years where, you know, we have these really powerful tools about open government to inform our citizenry, whether that's primarily through our public records laws or our public meetings laws. And I feel like we're moving in the wrong direction, like we're sliding in the wrong direction on a lot of different levels of government, where we're tightening up information, where we're getting defensive with our citizenry, who we serve. And, you know, I know Senator Albrecht has a great bill to strengthen public meetings laws. We've got other measures pending before Education. Senator Sanders has measures to improve transparency for educational issues. And then the Government Committee's put forward an update to our, our public records laws. And, and I appreciate they're on the front lines in dealing with a lot of tough issues too. But I'm really frustrated that we hear from government lawyer and lobbyist after government lawyer and lobbyist that, you know, it's a real burden to comply with these laws. And I just think that's the wrong lens. And I'm glad that you brought this forward. And I think it's in line with a lot of frustrations we've been hearing about for a long time. And, and maybe we can, can find a good- a good place for it. But, I, I know you've been involved in government and politics for a long time too. Do you have a sense about just trend lines, kind of how we're, we're moving here in Nebraska. Is it towards transparent? Do you feel like it's towards transparency or do you feel like we're we're moving away from that?

LINEHAN: I think that-- I think we are moving away from it, and it's happening because-- thank goodness we still have some small town newspapers that go to meetings, but we have too many where there is no longer a newspaper. So there's nobody to tell people what's going on.

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So I think people are getting-- and I-- it's hard to be a public servant, right?

CONRAD: It is.

LINEHAN: We all know it's hard. Like you go to the grocery store sometimes, and you want to wear sunglasses and a hat and you don't want to talk to anybody, like you don't. I remember once going to a garden store with my-- with my Linehan shirt on. I'm like, what am I doing? I, I realize trying to avoid publicity. But it's not OK because people need to know, they need to be able to engage and express their frustrations, just like we have all these hearings so people can comment, and tell us why we're wrong. I think it's very important. And I-- yes, I think because of a lack of press, and fewer and fewer news outlets, that it is becoming kind of like, oh, well, we don't have to do that, because nobody calls them on it.

CONRAD: No. I appreciate the connection to the-- to the local news coverage as well and how losing that really impacts our democracy in a negative way. But I, I appreciate you offering that, that analysis. Thank you.

LINEHAN: Thank you.

BREWER: All right. One more run through, any more questions for Senator Linehan? Thank you. And, you'll stick around for close?

LINEHAN: Yes. As long as I don't have a bill over there.

BREWER: OK. We will-- we will simply work through it. All right. We'll start with proponents to LB951. Come on up. Welcome to the Government Committee.

JOSH HENNINGSSEN: Hello. Thank you, Senator Brewer. My name is Josh Henningsen, J-o-s-h H-e-n-n-i-n-g-s-e-n, and I represent sub district 7 on the board of the Papio-Missouri River Natural Resources District. And I'm Here today in my personal capacity in support of LB951. In the first line of the first section of the Open Meetings Act, the Legislature declared it to be the policy of the state that the formation of public policy is public business and may not be conducted in secret. And there's a well-established legal maxim in American law that the government may not do indirectly what it cannot do directly. The entities covered by LB951 may or may not be violating the existing letter of the law, but they're most certainly violating the spirit of the law. I'd like to focus for a second on the value of a bill like

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LB951 to public officials and to the Legislature. As I mentioned, I'm on the board of an NRD, and our NRD is a member of the Nebraska Association of Resource Districts. In July of each year, our board selects a delegate to attend association meetings, and our district board does not give the delegate authority to make any decisions, or decide poli-- or policy on behalf of the district. And my understanding is this is how it works for other districts and their delegates. In mid January, the association holds its annual meeting here in Lincoln, and the timing, location and schedule make it pretty obvious that one of the primary purposes of the annual meeting is lobbying and legislative affairs. Early in the week of that meeting, a subcommittee of delegates meets to review legislation and make recommendations to the association delegates to adopt the NARD positions on certain legislation. This meeting is on the schedule and apparently open, but no agenda of the bills to be discussed is published in advance. This year, after the-- after that meeting, I emailed the executive director of the association asking for the list of bills that was considered, who was on the legislative subcommittee, and how those people were chosen. The response was that the association is not a public body, and therefore I was not entitled to that information as an NRD director. I clarified that my request for information was not as a member of the public, it was as a director of an NRD. That was three weeks ago and I have not heard back. The next day, the recommendations of the subcommittee were presented to the directors in attendance, but only the delegates voted. The next week, the general manager of our NRD appeared at a hearing, introduced himself in his capacity as our general manager, and submitted a letter on our letterhead in support of a bill. Our board had never discussed that bill. The association had decided to support it. This is obviously bad for public officials because our legal authority to decide the public policy, or the policy positions of our district is being hijacked. It's also bad for the Legislature because people are appearing in hearings like this every day in this building, as representatives of entities that do not have the authority or support they say they do. LB951 solves a very real problem by providing additional transparency and structure that will help public officials do their jobs and allow legislatures to clear-- legislators to clearly understand the positions of actual stakeholders on legislation. Thank you.

BREWER: Well, that was revealing. Sometimes, if you're not a part of what's going on, you don't realize what the ground-- the ground truth on what's happening is. That, that was kind of an eye opener, so

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thanks for sharing that. Let's see if we don't have questions. I guess I have one. So how long have you had the current position that you have with the NRD?

JOSH HENNINGSSEN: I was appointed a year and a half ago.

BREWER: OK, so this isn't like-- you haven't had a lot of history with it.

JOSH HENNINGSSEN: Right.

BREWER: This is kind of--

JOSH HENNINGSSEN: Right.

BREWER: --a shot in the face the first time around to see how things are done.

JOSH HENNINGSSEN: Yeah, a lot of people have been kind of going along to get along for a long time, I think.

BREWER: Yeah. Well, sometimes that gets hard to do when you get left out of, of being able to have oversight, because if enough stuff happens in the dark, it tends to end up being bad stuff normally, because if it's if it's being done right, you shouldn't be afraid to have a discussion on it. So, all right, well, thank you for your testimony. I appreciate it.

JOSH HENNINGSSEN: Thank you.

BREWER: OK. Let's see, we are still on proponents to LB951. Come on up. Welcome to the Government Committee.

CARTER THIELE: Thank you very much. Chairman Brewer, Vice Chairwoman Sanders, and members of the Government, Military and Veterans Affairs Committee. My name is Carter Thiele, that's C-a-r-t-e-r T-h-i-e-l-e. I am the policy and research coordinator for the Lincoln Independent Business Association. Governmental transparency has been a legislative priority for us for years, so we would like to express our support for this bill. It is partial support, though. All but one provision of this act appropriately distinguish between the public and private sectors. It acknowledges the unique position of public officials who serve on private boards, recognizing that an elected official's public sector identity indicates a certain level of public interest in their activities, even when conducted within a private entity. The act's

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provision to make these meetings open to the public is a commendable step towards transparency and accountability. It doesn't blur the lines between the public and private sector, but rather acknowledges the public's right to be informed about the activities of their elected officials, even when those activities occur within the context of a private board. This is along the same line of reasoning as public disclosures of financial conflicts of interest, and thus we appreciate this provision. However, the act's provision allowing members of the public to speak at these meetings goes a step too far. While public officials carry their public sector identity into their roles on private boards, these boards remain fundamentally boards of private entities conducting their own business. Allowing the public to speak at these meetings risks confusing the distinct roles and responsibilities of the public and private sectors. The public is afforded the opportunity to speak in front of their respective representatives at city council meetings, county board meetings, public school board meetings, among a host of others on public issues. Allowing the members of the public to speak at private entities' board meetings is disruptive to the private board's functioning, an unnecessary burden of the private board members' time, and serves little to no tangible purpose. In conclusion, we believe that the Public Officials on Private Boards Open Meetings Act is a mostly sensible piece of legislation. We urge you to support this bill and work towards its swift passage, with a reconsideration of the provision allowing public speaking at these meetings. We are confident that this act with this amendment would contribute significantly towards enhancing transparency, accountability and public participation within our state. Thank you, and I would be happy to answer any questions.

BREWER: All right. Thank you for your testimony. Let's see if we have any questions. Questions? Questions? All right. Thank you.

CARTER THIELE: Thank you.

BREWER: All right. Proponents on LB951. Last call. All right, now we will jump to opponents. Welcome to the Government Committee.

JOHN SPATZ: Thank you very much. Thank you for having me today, Senator Brewer and members of the committee. My name is John Spatz. It's J-o-h-n S-p-a-t-z. Believe it or not, it is pronounced "spots". I'm the executive director of the Nebraska Association of School Boards, better known as NASB. And for time purposes, I'm going to try to address 3 things. Number 1, kind of the practical application of

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this bill. Number 2, some legal or constitutional issues we've identified, and I have a handout on that. And then number 3, if we have some time, talking about the-- potentially a disincentive this may create in local service. As identified before, at the beginning of our current statutes dealing with the Open Meetings Act, 14-- 84-1408, it says, "it is hereby declared that the policy of this state that the formation of public policy is public business and may not be conducted in secret." And we strongly support that. But just by way of an example, NASB is a private nonprofit, 501(c)(6). My board of directors does not make policy. We cannot pass a law, a rule, a regulation that binds the public in any way, shape or form. We don't levy a tax. The public does not vote for our board of directors. But yet, if this were to pass, NASB would be subject to the Open Meetings Act. And as identified in the language on page 2, line 14, the types of businesses are private or quasi-private entities, whether operated for profit or on a nonprofit basis. And then, as identified, any violation results in a \$10,000 civil fine. It says, shall be a \$10,000 civil fine. So, by way of an example, if 2 brothers owned an LLC and a farm operation, which is not unusual, and 1 brother happened to be on the city council, 1 brother happened to be on the local school board. Would that entity be subject to the Open Meetings Act? And if so, if a discussion amongst them about the farm operation was not publicized in a local newspaper, would there be a \$10,000 civil fine paid? Those are the sorts of things we're concerned about if this bill were passed. In your handout, I've, I've listed 3 potentially legal or constitutional issues. A couple of them deal with the state constitution. One is a potential federal constitutional issue if this were passed. Some detail is listed in your handout. I'd be happy to answer any questions after this-- after my time. But the third one really is-- in 2024, I'd like to find ways to incent people to run for a local board. School board members in Nebraska are unpaid volunteers, and it's not just one meeting a month. It's a pretty big commitment to serve on a local school board, on any local board for that nature-- for that matter. If we're going to say there's a chance your private business could be subject to the Open Meetings Act, I'm afraid we're going to create a disincentive for people willing to serve on local boards. So I see the red light's on. I'd be happy to answer any questions.

BREWER: All right. Thanks for respecting the red light. I haven't had a lot of that lately, so I appreciate it.

JOHN SPATZ: I tried to do my best.

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BREWER: No, no. It was yesterday. Not today. You're, you're good. All right, a little bit cold on, on the 3 that come up here, so we're probably going to have to digest on that a little bit, because anything that comes up as a legal issue-- fortunately, we have a couple of brilliant lawyers to go to here.

JOHN SPATZ: Yep. You do. And my intent was to put it in front of you. If, if this were to be discussed behind the scenes, having that available obviously, between now and when that's discussed--

BREWER: Well, if, if we--

JOHN SPATZ: --if you have any questions, I would be happy to talk.

BREWER: --if we discuss it, it will be in an Exec that there will be press in.

JOHN SPATZ: Good.

BREWER: So you know, don't worry about that.

JOHN SPATZ: Can I come in?

BREWER: Uh, no. I'm sure the press will share anything of value.

JOHN SPATZ: OK. Good.

BREWER: They, they like to, anyway. All right, let's see if we have questions for you. Questions? Yes, Senator Conrad.

CONRAD: Thank you, Chair Brewer. Thank you-- good to see you, John. Thank you so much. Always appreciate the thoughtfulness in you--

JOHN SPATZ: Yeah.

CONRAD: --with which you approach your work here. And I, I know that the committee will appreciate digging into this, and I'm sure Senator Linehan and her staff, as well. But I just wanted to maybe ask, looking at the handout here, maybe-- and maybe it's by way of example, but I think it probably paints with too broad a brush. I mean, I don't think Senator Linehan's legislation or any state legislation can change tax designations under the Federal Revenue Code. I mean--

JOHN SPATZ: No. No. I know-- this says.

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CONRAD: --so where it says NASW [SIC] is a 501(c)(6), and under this bill we'd no longer be a private nonprofit, I don't think that's accurate.

JOHN SPATZ: Well, we would be subject to the Open Meetings Act. So from, from our-- we would no longer have the ability to have private discussions under this act.

CONRAD: OK. Do you-- when your board gets together, it is comprised of school board members across the state.

JOHN SPATZ: That's correct.

CONRAD: Who are elected by their peers to serve on your board--

JOHN SPATZ: That's correct.

CONRAD: --or do you select-- OK. I wasn't sure what the selection process was. And what-- how would you characterize the work that you do in regards to formulating policy positions? I mean, isn't-- don't you set--

JOHN SPATZ: What do you mean by policy positions?

CONRAD: I mean, when the school board association comes together, they look at a list of bills and they say, we support or oppose these, right?

JOHN SPATZ: Yep.

CONRAD: I mean, that's--

JOHN SPATZ: OK, so, so you're talking about [INAUDIBLE]--

CONRAD: Policy formulation, yes.

JOHN SPATZ: --as it relates-- yeah. And there's a variety of ways. People can suggest-- we have standing positions and resolutions--

CONRAD: Sure.

JOHN SPATZ: --that people can suggest. We used to have the-- the attorneys used to suggest a lot. They don't do that as much anymore. But the school board members can do it, school districts can suggest, hey, look, we think NASB should have a standing position that does X, Y, and Z. And so, what happens under that--

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CONRAD: So, for example, like it might, just to help us get a tangible example, it might be we're going to support measures that improve school funding or--

JOHN SPATZ: That's right. Yeah.

CONRAD: --something like that.

JOHN SPATZ: Something like that. Yep.

CONRAD: OK.

JOHN SPATZ: Yep. So we have a legislative committee that's elected, as well. And then that gets forwarded to our board of directors, and that goes toward delegate assembly. So each school district has one vote during our delegate assembly. That happens every November. And so, we have a slate of usually not a whole lot that's new, but sometimes new standing positions or resolutions that, that are voted in by the delegate assembly. So those are kind of the marching orders for us, as an organization--

CONRAD: OK.

JOHN SPATZ: --to lobby or to engage with the Legislature.

CONRAD: OK. That's helpful. And then, so-- and I, I seriously don't know the answer to this question. That's why I'm asking it. I'm not trying to play "got you" on it. But your organization is funded, I'm guessing, primarily through dues by public entities. No? Yes?

JOHN SPATZ: Right. Not primarily.

CONRAD: OK.

JOHN SPATZ: Not primarily. No.

CONRAD: What are the revenue streams?

JOHN SPATZ: Oh, it's a, it's a variety of things.

CONRAD: OK.

JOHN SPATZ: So we, we operate a number of subsidiary organizations. Our dues, if you-- depending on how, it's a variety of ways in which you can measure that, but it's a it's less than half of our, our revenue--

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CONRAD: OK.

JOHN SPATZ: --by substantially less than half of our revenue. So our other part of that comes from a-- numerous different sources.

CONRAD: And are those other revenue streams related to public dollars?

JOHN SPATZ: What do you mean by public dollars? We don't-- I don't go-- I do not-- I don't have the ability to tax people. I don't have the ability to take money from--

CONRAD: Right.

JOHN SPATZ: --the taxpayers.

CONRAD: But your members, I'm guessing, pay their dues or contribute to other revenue streams through the public dollars in their local school jurisdiction.

JOHN SPATZ: Some of which might be. Yeah, again, we're-- yeah. No, I know.

CONRAD: I'm, I'm not trying to play got-- I don't understand how it's structured in terms of funding.

JOHN SPATZ: I would love to sit down and, and--

CONRAD: OK.

JOHN SPATZ: --draw you a map. But amongst the-- you know, a big part-- you know, something we decide-- or discovered several years ago, was our demand for providing board development and support around things like Open Meetings Act, for example, was higher than our ability to meet it. So we really had to figure out ways to grow our organization to better support school board members in the state of Nebraska. So a big chunk of our revenue actually comes in from out of state, from, from school districts all around the nation, and so that is used by us to support schools in Nebraska.

CONRAD: OK. Well, that opened up a whole new thread of questions, but I'm not sure I'm going to have time for that here today. OK, I think-- I, I understand.

JOHN SPATZ: But there, there are numerous organizations out there. And, and one of our subsidiaries is a C corporation, for example.

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Competitors are from other places from around the nation. Under this language, that organization would be subject to the Open Meetings Act. I don't know if that's the intent, but this casts, I, I would say, a very wide net of types of organizations. If you're an LLC, if you're an S corporation, if you're a C corporation, if you're a private nonprofit 501(c)(3), 501(c)(6), if a majority of the board is a locally elected official, that becomes subject to this act. So there-- I, I just think the, the types of organizations and the number of organizations that may end up being subject to this is pretty-- it's pretty vast.

CONRAD: Right. But it's not, say, for example, on its face, it doesn't cast the net so widely that it would be like an elected official happens to sit on a hospital board or a local United Way chapter, would require the majority--

JOHN SPATZ: Yep. That's correct. That's correct.

CONRAD: --of the membership to be elected officials.

JOHN SPATZ: That's correct. Well, and, and amongst the issues that we have are kind of the equal protection. If we have one LLC with 3 members, 2 of which are part of a locally elected board, competing with a neighboring LLC that does not have many locally elected people on its board, 1 entity has to be subject to the Open Meetings Act. The other one doesn't. Under this.

CONRAD: Right. So like-- but is that an actual issue? Because, like, what's the compete-- what's the, quote unquote, potential composition from-- who's the competitor to the school board association?

JOHN SPATZ: Well, in other states, there have been competitors that have popped up--

CONRAD: OK.

JOHN SPATZ: --but they aren't made up of school board members.

CONRAD: The have different professional--

JOHN SPATZ: And I'm, and I'm not referring necessarily to the school board.

CONRAD: OK.

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JOHN SPATZ: I'm just talking about in general. If, if, if, if we have an LLC that is subject to the Open Meetings Act because of this act, that has a competitor LLC whose members aren't locally elected officials, 1 is subject to the Open Meetings Act and 1 is not.

CONRAD: And you-- and transparency is somehow a hindrance to the ability to pursue the LLC's mission?

JOHN SPATZ: Well, there might be trade secrets. There might be discussion about strategy or how you--

CONRAD: But wasn't, wasn't that exempted out, the trade secrets piece?

JOHN SPATZ: Well, that well, that's under closed session, but that's a whole 'nother line--

CONRAD: OK.

JOHN SPATZ: --of the open meetings act--

CONRAD: OK.

JOHN SPATZ: --by which you can go into closed session. There might be some things in there that are allowable, but during any meeting of a business, there's likely information shared that you may not want a competitor to have.

CONRAD: OK. All right. Well, thank you for raising these issues.

JOHN SPATZ: Yep.

CONRAD: I will think deeply about them. I'm not sure that we have a meeting of the minds on them, but I know that you're trying to bring forward good ideas for us to consider as we look at the bill.

JOHN SPATZ: Well, and, and also, I would like to follow up-- you know, I, I started as a legal counsel--

CONRAD: Yes.

JOHN SPATZ: --in '03--

CONRAD: Yeah.

JOHN SPATZ: --with NASB. At the time, I would say 4 out of the 5 inquiries I got from school board members had something to do with the

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Open Meetings Act. And we, we invested a tremendous amount of time and resources into better educating school board and school districts so they would do that better.

CONRAD: Sure.

JOHN SPATZ: Under the Open Meetings Act, I think they're doing it better today than ever, and I just looked at a trajectory of the Open Meetings Act. Because what I found at the time, is people just didn't understand exactly what, what the requirements were. And so, it was important for us to make sure that they were doing that. And we've always said we want to make sure school boards are doing the right thing. And if you are, you want your public engaged and you want your public there. That's the goal for us as an organization is to have the public more engaged.

CONRAD: Yes. I, I think that's right, and probably at the heart of Senator Linehan's proposal. So maybe the policy goals are the same and there's maybe some nuance, in terms of [INAUDIBLE]--

JOHN SPATZ: I agree.

CONRAD: --this structure here.

JOHN SPATZ: Transparency is important to us as an organization. It really is. And I can't say that enough. And where I've seen school board members and school districts run into problems-- we talk to them every day. It's where there's some kind of suspicion sometime because there is a lack of transparency--

CONRAD: Yeah.

JOHN SPATZ: --or somebody has a misunderstanding and had there been more transparency, they could have worked things out. Things wouldn't have been as bad. And so, there-- I think there probably is a lot more potential meeting of the minds around transparency for publicly elected people on their boards, which is different than what this is. This is for private entities.

CONRAD: Right. It did-- it does feel, though, like it's another layer for an everyday citizen who's trying to sort out what's happening when government's expending resources in their name, right. Like if I'm a local taxpayer to LPS, and then LPS is paying you dues, then I'm trying to figure out what you're doing there. You know, follow the dollars--

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JOHN SPATZ: Right.

CONRAD: --so many different ways. And then you're made up of all school board members, and like, hey, what's going on there? Can't let you know. It's private.

JOHN SPATZ: Well, and--

CONRAD: It just feel-- it feels like it does--

JOHN SPATZ: I get it. I get it. And I, and I think this is worthy of us having a conversation. But if LPS pays money to a local architect--

CONRAD: I just-- just because I live at LPS, not pointing fingers at LPS.

JOHN SPATZ: No, no, no.

CONRAD: But-- right. Yeah.

JOHN SPATZ: Yeah. I agree, and I do, too. But you know, if, if they're spending money at a-- on an architect that lobbies the, the Legislature, public money is going there. Or if they're spending money on a-- on the-- on a construction crew of some kind that ends up lobbying, it's more public money from a district is going in a variety of different places. Dues is one thing that, that they may end up paying.

CONRAD: OK. All right. Thanks. Thanks, John. Thank you, Chair. Thanks.

JOHN SPATZ: Sorry.

CONRAD: No, that's helpful, just thinking through the different threads.

BREWER: If we go back to your testimony, if I remember right, you said that you were concerned because you were afraid that you may have folks that were no longer interested in running for--

JOHN SPATZ: Yes.

BREWER: --the school board because of what this legislation would do.

JOHN SPATZ: Correct. Yep.

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BREWER: I got a niece running for a school board. I'll have to-- I'll see her this weekend and I'll quiz her on this. But you're saying that because you think that then, they're going to have to discuss or not discuss things that directly impact the school and the position that they're in?

JOHN SPATZ: Yeah. Good question. So, so under the law, it says any private or quasi-private entity could be subject to this. So just as an example, Senator Brewer, let's say you and I would like to form an association. We're going to form a partnership, a business to, to sell widgets or something like that. And we form an LLC, and we're the two shareholders that make up the board of that LLC. Let's say you're a local school board member. I'm on the local county board. Under this, we think that would be subject to the Open Meetings Act. So if I have a private business and I want to serve on a local board of some kind, or are currently serving on a local board and the state of Nebraska reaches down and says, now, your private business has to be open to the public, does that create a disincentive for people currently serving or who may be interested in serving? I'd, I'd be over the moon to have a discussion with this committee or Legislature to figure out ways to incent people to run or make it more-- or easier for people to run for locally elected offices. This-- I would be concerned that this could create a disincentive for people wanting to serve.

BREWER: OK. I, I kind of understand where you're coming from. I don't know if I fully understand the, the LLC connection with your service on the board, but I got to read more to kind of sort some of that out.

JOHN SPATZ: Well, the law says a private business will be subject to the act if the board of direct-- if the majority of the board of directors is on a local-- locally elected board, like a school board, city council. So if you and I formed an LLC, an S Corporation, a C corporation, as the two shareholders that made up the board of directors, to sell widgets or do whatever, under this, that entity would be subject to the Open Meetings Act. And so, a concern would be if that-- if we didn't advertise for a meeting, we didn't post notice for a meeting, in the bill-- in the bill it says there shall be subject to a civil fine of \$10,000. And I don't know if that was the intent. But that-- we're concerned that could be the application of this bill. And, and, and I just-- I do want to extend my hand of, of willingness to participate and discuss how do we encourage the public to be engaged with local boards-- school boards and city councils and county boards and NRDs and all the rest? We'd, we'd be thrilled to

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have that conversation to see what can we do better to get more people involved with publicly elected boards.

BREWER: All right. Let me see if we have any other questions. All right. Thank you for your testimony. And we'll-- oh. I'm sorry.

HALLORAN: That's all right. I was slow putting my hand up. It's my fault.

BREWER: Well, speed it up. All right. You're up, Senator.

HALLORAN: Thank you, Chairman Brewer. And thank you for being here. Would you and maybe you already have been just as willing to talk about it-- you're willing-- you would like to talk about how to encourage people to--

JOHN SPATZ: Yeah. Um-hum.

HALLORAN: --to participate in school boards and NRDs and so forth.

JOHN SPATZ: Yeah.

HALLORAN: Can we maybe expect that same level of enthusiasm to work with Senator Linehan on making this work, in resolving some of the questions that you have?

JOHN SPATZ: If, if the discussion is to how-- if, if-- what we're trying to figure out is how to create more transparency for boards, for locally elected boards, for public bodies. Yes. Absolutely. I, I think we'd be thrilled to have that conversation.

HALLORAN: There's an old expression, sunshine is the best disinfectant.

JOHN SPATZ: It is. No question. Yep. Yep.

HALLORAN: All right. And we talk about transparency a lot in the Legislature. There's things that we sometimes are marginal about that ourselves.

JOHN SPATZ: I know.

HALLORAN: But nevertheless, I think the Leg-- the more we can do, here or there--

JOHN SPATZ: I agree.

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HALLORAN: --to create not just the impression of transparency, but the reality of transparency, is, is important.

JOHN SPATZ: Yep.

HALLORAN: You've got to have public trust, right?

JOHN SPATZ: Totally agree. And, and like I said to Senator Conrad, I, I think, over the 20 years in this position, I see where, where boards have run into problems, I, I feel like the public didn't feel like there was transparency. And so we-- I think we have a big job on our part, working with, for my-- for me, with school boards, and making sure we're, we're doing a good job as it relates to transparency. Now, I, I think for the most part, schools are doing a pretty good job. But once in a while, things do pop up. And I, I, I look at-- point the thumb at ourselves and say, how can we do a better job making sure people understand what they should be doing as it relates to the Open Meetings Act?

HALLORAN: OK. All right. Thank you.

JOHN SPATZ: Yeah.

BREWER: OK. Any other questions? All right. Thank you for your testimony.

JOHN SPATZ: Sorry. I got long-winded. I apologize.

BREWER: No, no. We got her. OK. Next opponent to LB951. Welcome back to the Government Committee.

JACK MOLES: Thank you. Good afternoon, Senator Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Jack Moles. That's J-a-c-k M-o-l-e-s. I'm the executive director of the Nebraska Rural Community Schools Association, also known as NRCSA. And on behalf of NRCSA, I would like to testify in opposition to LB951. I, I went a little bit further down the rabbit hole than, than John Spatz did even. Requiring private or quasi-public entities to follow the Open Meetings Act if the majority of the board of directors are elected or appointed public officials would insert state governmental control into many private boards. And again, I went a little bit deeper. So some examples might be a, a community or a school foundation that operates away from the control of the village or city board or the board of education. Another example might be a church council. Often, in rural committees-- or communities, members

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of those groups wear many hats. Those hats might include being on a city or village board, a board of education, or a superintendent of schools, as is denoted in the, in the bill. It would not be uncommon for a village board member, a board of education member, or a superintendent to be on the same church council, same local foundation, same local youth sports association, volunteer fire department board, or leadership in civic organizations such as Lions Club, Rotary, or Kiwanis. From a rural school aspect, one of the-- one thing that boards of education expect from their superintendent is be active locally. I often encourage that of our rural superintendents. LB951 would likely have the unintended result of discouraging superintendents, board of education members, county commissioners, or village board members from becoming involved in other entities. I would question whether this is really the result that the Leg-- Legislature would want to affect. The Open Meetings Act, we very much support. We do have, as, as stated earlier, the, the idea of being able to speak at all of these other organizations, that would be going a little bit too far also. I don't know that this is-- you know, with the things I dealt with-- or came up with. I don't think they are things that Senator Linehan probably has in mind, but, but they are concerns that I had, as the bill is written.

BREWER: All right. Thank you for your testimony. One of the things we're probably gonna have to do is, we'll ask plenty of questions on the close here, to kind of narrow this down and figure out if what's written doesn't match what reality is, then that's, that's the challenge we got to work through. Yes, Senator Conrad.

CONRAD: Thank, thank you, Chair. And thank you for being here, Jack. Good to see you. We see-- Senator Sanders and I get to see you at Education, and now we get to see you at Government, so that's always nice. But it sounds like maybe the thread that I'm hearing, from John's testimony and yours, is perhaps working with Senator Linehan to maybe tighten up the, the definitions in terms of who this act would be applicable to if it, it move forward, which I think is probably something that-- that's probably workable in the process. And I don't want to put you on the spot, but you happen to be in the chair. So I throw this out for legal counsel or others that might be coming up, because I think the other part that I'm kind of grappling with that you mentioned here, a little bit is-- and I don't know the answer off the top of my head, whether or not public entities have the same First Amendment rights to associate, organize and petition as does an individual citizen. I think they're different. But that would some-- that'd be something that I'd want to make sure I was right about. And

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I'm sure Dick can help us maybe think through it or the other folks in the or-- in the audience, as well. Because I, I think you would have a, a stronger case if these were individual citizens who were, in their capacity as individual citizens, organizing, associating, and petitioning. These are all entities of government that are coming together, which, I think, perhaps they're right, may not be as robust as the individual, but I don't know that for sure. And I want to think about that a little bit, a little bit more deeply. You know, the other thing in-- John mentioned, then I kind of let it go because I know we got a lot going on and it's been a long week, and it popped up here too, is, you know, I, I, I know how hard people and schools work and I'm really grateful for how hard they work. And their perspective is valuable in these halls, as we try and figure out how to work in partnership to advance our shared goals. But I will tell you, I don't think the rhetoric matches the practice when it comes to saying repeatedly, we value open meetings, we value open records. The same groups that are saying this are the ones before this committee testifying against bills to strengthen open records and open meetings laws. And, you know, the feedback that I'm getting in my office, whether it's from Crete or Lincoln or Schuyler or Scottsbluff, is really frustrated parents who are trying to figure out what's going on at their schools. And it might be because they're concerned about curriculum, it might be because they're concerned about a new drug testing policy. It could be for a bunch of different reasons, and they legitimately can't get information from their schools. And, and that's wrong. So I don't, I don't know if this is the best remedy to, to go about strengthening transparency, but it-- it's, it's disturbing to me that we've-- I'm seeing a trend towards less transparency rather than more, with our entities of government. And I think not only is that out of line with the spirit and intent of our law, but it, it fosters distrust in government, which hurts all of us when we're trying to figure out how to do our job. So I, I know that's a lot to put on you for this bill, but it's, it's a common thread I'm seeing across education in government. And having practiced in these areas for over 20 years, it's-- I just-- I think it's out of step with who we are in Nebraska. And, and I think it's, it's not an issue that's right or left on the political spectrum here, but the citizens are really getting frustrated.

JACK MOLES: My, my experience would be on the other side, I think--

CONRAD: OK.

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JACK MOLES: --that, that from my career as a superintendent, 23 years as a superintendent--

CONRAD: Yeah.

JACK MOLES: --but that I, I thought we became more transparent. I, I think the Open Meetings Act has really helped to affect that.

CONRAD: OK.

JACK MOLES: But one of the things I've done as, as the executive director of NRCSA, is I go out to school board meetings. In fact, Tuesday night, I hit my 97th board meeting.

CONRAD: OK.

JACK MOLES: And what I've seen at those school board meetings are, first of all, about 2/3 of the meetings, nobody comes to them.

CONRAD: Sure. Right. Yep.

JACK MOLES: But the ones that do, there, there was an open dialogue there, and I thought it worked pretty well.

CONRAD: Yeah.

JACK MOLES: So I-- my experience is, is that we are moving in the right direction. We can still improve, of course. Obviously, we could improve, but.

CONRAD: All right. Well-- and, and that is good. And I don't want to paint with too broad a brush out there. And I know they're, they're tough issues. But, you know, I've seen public records responses very recently from schools, when people said, hey, give me your policies on school resource officers' \$12 million bill. I've seen-- I went to the government practice section at the bar association, all government attorneys talking to a group of government attorneys about, you know, here's how we basically get around open records and public meetings laws. And it's a good thing I didn't have a Fitbit on when I was in the audience there that day. But, you know, even simple things like if a parent's at a school board meeting and they ask for something we pass out, we make them put it in writing and submit a formal open rec-- open records request. That's shocking to me. Like, somebody takes time out of their day to go to a school board meeting, and they ask somebody for what they're discussing at the meeting and they won't

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even give it to them? I mean, hey, I don't know. I'm, I'm dismayed about the, about the state of transparency across government today, but, but hopefully, we'll be able to, to remedy some of that. And, and I appreciate you, you sitting in the chair for it.

JACK MOLES: Thank you.

CONRAD: Yeah.

BREWER: All right, Jack. Let's see if we have any more questions.

BREWER: Senator Halloran.

HALLORAN: Thank you, Mr. Chairman. Quick question. I mean, you mentioned how many school board meetings you've been to. And then I think you said some comment about how a number-- many of them, however many, were not well attended.

JACK MOLES: Right.

HALLORAN: It could be that, that this whole subject matter is, is possibly, possibly part of the reason why people have become cynical about attending public meetings.

Yeah. That's a good point.

Right. Because they just don't feel like they're getting the information then, as readily or without jumping over hurdles to get it and maybe that's part-- and, and, and well-attended public meetings are important.

JACK MOLES: And, and I would tell you, I think that's a, a possibility. In fact, in some cases, it probably could be the case. But the thing I see in our, our rural districts is people tend to trust our, our rural boards of education, I think. There-- that's not always the case, but I think the tendency is, is in that direction.

HALLORAN: Well, if absence of attendance is a measure of trust, then I guess we're all in pretty good shape, you know. I mean, I don't know. I, I would question that's a good measure of, of, of the public trusting public entities, but I appreciate your response.

JACK MOLES: Thank you.

BREWER: All right. Any additional questions for Jack?

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CONRAD: Thanks, Jack. Thanks.

BREWER: All right.

JACK MOLES: Thank you.

BREWER: Thank you for your testimony. So you just decided you're going to wander into the kill zone, too?

JON CANNON: When you put it in those terms, sir, I, I, I may have to wander off.

BREWER: Welcome to the Government Committee.

HALLORAN: OK. Let me adjust my sights.

JON CANNON: Chairman Brewer and members of the Government, Military and Veterans Affairs Committee, good afternoon. My name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the executive director of NACO, the Nebraska Association of County Officials. We represent all 93 counties across the state of Nebraska, here in respectful opposition to LB951. I want to thank Senator Linehan for bringing this bill forward. She's-- I, I see her most often in Revenue, and she's been a great partner on a lot of different tax issues. We have some very hard conversations and she's always been respectful and, and certainly listened to what we have to say. And so I don't want to, at all, diminish any of the things that she's trying to accomplish here today. I also have to give her my apologies, actually. I've been trying to find her for the last 3 days in one way, shape or form, to let her know we were going to be opposed to this bill. And I, I did not catch up to her. I, I saw you in the hall yesterday, Senator, and, and handed you a piece of paper and, and that wasn't--- had nothing to do with this, this bill. So my apologies for that. Our opposition to this bill is that we, we think it's well-intended but overbroad. I mean, everyone-- everyone's already heard everything we talked about, about transparency in government and, and how much we, we certainly appreciate that sentiment. Jack Moles actually used my, my example of the church council. You know, I represent 93 counties; 80 of them are very rural in nature. And it is not uncommon to have a church council in a small town, where you've got a county board member, you got a city council member, maybe you got a, a senior teacher or something like that. And that's, that's an example that's typical across Nebraska, where you could have that sort of thing. And, and so that church council, I, I don't think they'd like to be subject to the Open Meetings Act. I, I

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think there's probably some First Amendment issues there. But, you know, I'll use a different example. And, and it doesn't quite get there, but it's illus-- illustrative, I think. My wife happens to be an executive at the Ameritas Life Insurance Company, and they have a board of 12 people. And on that board, there is the CEO of N-- of OPPD, and they have the dean of a college from-- some college in Washington, DC. And though-- that's only 2 out of 12, but those are, those are public employees. And if, if for whatever reason, they had 4 more, now all of a sudden, they're starting to approach a majority of the board of a life insurance company being considered a private board with public employees. And I'm not sure that's exactly where we intended to go with this legislation. The constitutional issues certainly have been covered well by, by John Spatz. I, I won't go into those. You know, we're certainly-- we're happy to participate in the discussion as far as what we can do to make things more transparent. I, I have no allergies to that. We do appreciate the intergovernmental partnership. I'll note that our-- at our annual conference for NACO, we had invited all, all 49 senators to attend one of the days of the, you know, conference. Senator Lowe, thank you for attending. I do appreciate that. And one thing I'll mention as far as NACO is concerned, is that, to echo what John Spatz had said, we don't make policy for 93 counties. We make policy that represents 93 counties, but I'll, I'll tell you what. In my, my short time as the executive director of NACO, I've had the uncomfortable position of having individual counties take positions in opposition to where we were. Either they were opposed to a bill that we were proponents of, or vice versa. And I'm out of time. I will gladly take any questions.

BREWER: Well, I would have let you go longer because you're in the hot seat here and we kind of need to--

JON CANNON: I think you referred to it as the kill zone, sir.

BREWER: Well, that's, that's what the time now is for. All right. Are you an attorney, Jon?

JON CANNON: Yes, sir. I am.

BREWER: All right. Good. I feel less guilty. What we're going to do is take a look at the intent of what Senator Linehan wants to do. Because what I'm worried about is, is we're ships passing in the night, and we're thinking that this is a good idea. But lawyers are really good at coming up with these crazy [INAUDIBLE], you know, that, that-- a what if scenario where you take what is intended, but you could take

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what's there and twist it into some weird contortion that everybody would say, oh my God, no, that's not what we want to do. But if we could just go back to the concept, is there ways that we could tweak this to make it into what we, I think were talking about, in, in wanting to be open and transparent. Maybe that's too deep a question to throw while you're in the hot seat here. But it, it just seems like where we're reaching to find things that, that are these scenarios that wouldn't be right, we couldn't do that, but yet I still think that the concept, we're, we're not really embracing, in, in how do we get there?

JON CANNON: Absolutely. And I'll, I'll be the first to acknowledge that lawyers are a bunch of crafty devils, with apologies to the ones in the room. And, and to your point, sir, you know, the-- my-- the reasoning behind my-- how I presented my testimony, I wanted to, you know, first acknowledge this is well intended. I ended by saying, I'm certainly happy to, to work on this. And in the middle, sandwiched in between is, you know, here's the concern. And you know, to that extent, the reason I structured it that way is, is to acknowledge the fact that, that, matters of public policy regarding transparency are of paramount importance to the citizens of this state. I mean, you've heard this once, you've heard it a zillion times, the salvation of the state is watchfulness of the citizen. And to the extent that we're talking about the expenditure of public funds or the, the creation of public policy, then I think that is an entirely legitimate area of inquiry. I, I, I think that's probably the dividing line, sir, is, is, is where I think we would be-- have more comfort, is if there is something about public pol-- and, and to Senator Linehan in her opening. She gave the example of public policy being discussed in a nonpublic forum. That makes a lot of sense, especially when you're talking about an, an agency or an organization that can act upon that public policy. Now, again, speaking for NACO, purely for NACO, when county officials get together, we talk about a, a wide variety of subjects, a lot of them having to do with taxation. And our members are all over the lot. Our board comes together to determine what the policy of NACO will be on individual, on individual issues. But again, that doesn't stop, you know, Lancaster County or Morrill County or Sioux County from taking a position that's contrary to what, what NACO has adopted, and so that the question, you know, really is, are, are we take-- are we making a public policy? I, I don't think that we are. But that's a good question that, you know, I, I think there's a legit conversation to be had there, sir.

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BREWER: OK. I like that. You're making us think through this whole thing. It isn't a yes/no answer.

JON CANNON: Yes, sir.

BREWER: Senator Conrad.

CONRAD: Thank you so much. And, John, just to that very point, just-- OK. I don't want to get too deep in Glasgow hypotheticals here.

JON CANNON: Oh, boy.

CONRAD: But when the Lancaster County Board and I-- comes together and says, we're going to set a legislative agenda that we're going to take to, you know, the folks at the Capitol, opposing X, ,Y, and Z, pushing for X, Y, and Z, you know, a lot of that is on the record and in the public arena. So I think the thing that I'm struggling with, if we're doing that individually, at the school board level or the county board level, but then when those voices come together collectively to set policy agendas, then that's where we're losing the public participation. And so, I, I do understand the point, as well, that we don't, you know, want to cast the net so widely, though, that we allow government to meddle in, you know, truly private affairs of a church or a local community foundation or things like that. So that seems more to the definitional kind of piece. But, yeah. So just kind of playing it out from the other side of the coin there.

JON CANNON: Yes, ma'am. Appreciate it.

CONRAD: Thanks.

BREWER: All right. Additional questions for John. All right. Thank you for your testimony.

JON CANNON: Thank you sir. Thank you all.

BREWER: OK. Additional opponents to LB951. Welcome back to the Government Committee.

DEB VanMATRE: Senator Brewer and members of the Government Committee, my name is Deb VanMatre. D-e-b V-a-n-m-a-t-r-e. I'm testifying in opposition to LB951 on behalf of the League of Nebraska Municipalities and the Nebraska Association of Resources Districts. I'm the mayor of Gibbon and serve as president of the League. I also was elected to the Central Platte NRD Board and the board of directors of the Nebraska

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Association of Resource Districts. Our 2 associations share the constitutional concerns previously outlined by John Spatz, executive director of the Nebraska Association of School Boards. LB951 poses many problems for nonprofit, profit organizations and associations, like the League and NARD. It would require every meeting of our governing boards to essentially be subject to provisions like those of the Open Meetings Act, which governs political subdivisions and public agencies. LB951 would allow members of the public to attend our meetings and conferences without registering or paying for the event. Like the Open Meetings Act, LB951 defines a meeting as all regular, special or called meetings, formal or informal, for the purposes of briefing, discussion of business, formation of tentative policy, or taking any action of the governing board or covered entity. The League and NARD hold several regular conferences, training meetings and events throughout the year. Our associations must enter into contracts with hotels, charter buses and/or vendors. We also must provide the number of people attending the event. A registration fee is associated with the event to cover the costs related to the meeting. If we must open these events for the public to attend, it would be almost impossible to plan and anticipate how many people would attend and what extra charges would be incurred. I'm not sure if our private sector partners with whom we contract would allow a public conference or meeting. It would be difficult for them to set up and prepare for such a meeting, especially in light of security concerns and related issues. At most conferences and events sponsored by the League and NARD, a board meeting is held either before or after the event, resulting in a quorum of our respective boards attending the entire event. Our board meetings are noticed and conducted pursuant to the provisions of the Nebraska Nonprofit Corporation Act in Chapter 21, Article, Article 19. At all these meetings, participants are informed of any policy changes and/or proposals by state and federal agencies. We also share information about policy issues faced by other members of our associations to keep our board members and their employees informed about important policy and regulatory developments. I respectfully ask the Government Committee to not advance LB951 to General File. Thank you.

BREWER: All right. Thank you, Deb. Seeing if we have any questions. I guess one of the concerns that I would think might come up for you guys is, is if you come out in opposition on the surface, or if you're just someone looking at it, it, it looks-- it doesn't look great because it appears as though by doing that, you've got something to hide. I mean, is there a concern that that appearance might be

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something that is going to be reflected in the communities when they hear that you guys oppose it?

DEB VanMATRE: I understand what you're asking. I don't know that I-- I'm, I'm not sure how to answer that. Our concern mainly has to do with our conferences and which is-- when we have the conference with, you know, we can have 300 people or better there. And, you know, as we've mentioned, we've got a contract with hotels. In the general conference portion of it, there is-- there's a number of people there. Some are employees, some are elected officials. And then, like we said, we do follow the nonprofit, nonprofit rules.

BREWER: OK. Well, one more time. Any, any questions? All right. Thank you for your testimony. Thanks for coming in. We made you do double duty. All right. Welcome back to the Government Committee.

TIM TEXEL: Chairman Brewer and members of the committee, my name is Tim Texel, T-i-m, last name is T-e-x-e-l. I'm testifying today in my personal capacity, as one of the directors of the Pine Lake Heights Homeowners Association here in Lincoln, Nebraska. Also interested in this bill because I am the executive director and general counsel of a state agency, appointed by my board. So I would be a public official as defined by LB951. I won't mention which agency to make sure there's no confusion on that point, unless you want to ask me. And the other directors and officers of, of the association did authorize me to testify in opposition on behalf of the HOA itself as an entity. So LB951, as you heard, would essentially make any private entity that happens to have a majority of public officials on its governing body, subject to the Open Meetings Act. Although this would probably be unusual, I would think, or even rare, it does, I think, would happen. For example, our HOA has 3 directors on it. I'm one of them. I've served on the HOA for approximately 25 years, about 20 years as a director, give or take. And in the past, while I was a director, there was another director that was an assistant attorney general. And whether they're [INAUDIBLE] under public official, I think they're an at-will employee appointed by the Attorney General, so at least arguably, they'd be a public official under this act. That would have made us subject to these provisions if LB951 was in place. So we have some concerns about that. There's a great many requirements under the Open Meetings Act. An HOA or condominium association, something like that, would be required to meet if this act were to pass. The vast majority of the directors and officers on HOA boards, like myself, are unpaid volunteers. We're just trying to do a good job for our neighborhood, and plant trees and make sure the commons areas are

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mowed and things like that. And as an attorney that's worked with the Open Meetings Act, I'm pretty familiar with the act-- the Open Meetings Act requirements, but I think few other directors would be, or officers. And normally, our president puts together the annual meeting. I'd have to take that over if that were true here, to make sure there wasn't a issue with that. And it would subject us to a \$10,000 fine. I think that would terrify most of my members and create a huge chill for them wanting to be on our board. It could be really hard for us to recruit members for our board as it is, and our officers. People, I think-- we talked about the measure of whether people showing up. We usually have a hard time getting just a quorum of people. So I think having something like this would make people run from being on our board. And we don't want to see that happen. And there's a lot of government officials that live in Lincoln. So that's what I come from, in my perspective, with this. We have a number of public officials, I think, that would live in our neighborhood. I don't want to cut them out of being on our board. We need all the people we can get, normally, to try and recruit them. So that's why we oppose it. And red light isn't on, but I'd be glad to answer any questions.

BREWER: All right. Thanks, Tim. So your concern isn't with what you'd have to reveal as part of the work that you do with Power Review Board? That's, that's kind of a cut and dried open--

TIM TEXEL: No, nothing to do with the board.

BREWER: --issue. It's those extended additional duties, responsibilities, things that you've had done, and how that would be affected by--

TIM TEXEL: Yeah. It wouldn't have anything--

BREWER: --wearing both hats.

TIM TEXEL: --to do with my official capacity other than since I'm a public official and I'm on the HOA board, if there's 1 other member, we have a majority now, and the Open Meetings Act applies to our HOA. And as difficult as it is, I mean, we, we have 464 households that are in our HOA. It's-- with that number, you think it'd be easy. It's still difficult to get enough people to be on the board of directors, and we have to send out mailings to everybody. I think this would make people run, if they thought there might be a \$10,000 fine if they did something wrong by accident and didn't follow the Open Meetings Act, I

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think people would say, I'm not going to risk that. You know, and I, in my official capacity, would have the Attorney General's Office that would be there to defend me and my official acts, and either something would be void or voidable that aren't-- my board approved. And in this situation, either the HOA would have to pay for it or I, personally. And you know, I don't want to do that. I'm just trying to help out my neighborhood also, and I have for a long time. And most people come and go. I've been there a long time and I think the HOA would not want to lose me. And I don't want to lose anybody else in our neighborhood that might want to serve.

BREWER: OK.

TIM TEXEL: So it has nothing to do with my official role, other than it would pull me into this.

BREWER: Right? What I'm trying to do is kind of set the stage for, for how the 2 associated and, and where this is going to apply to be a factor for you. OK. Questions for Tim? All right.

CONRAD: Thank you.

BREWER: Thank you for your testimony. All right. Next opponent to LB951. Welcome to the Government Committee.

KYLE MCGOWAN: Good afternoon, Chairman Brewer and members of the committee. My name is Kyle McGowan, K-y-l-e M-c-G-o-w-a-n. Today, I'm representing the Nebraska Council of School Administrators and the Greater Nebraska Schools Association to oppose LB951. We would agree with the concerns that were stated in prior testimony, so I'm not going to repeat those topics. Really, I only feel comfortable talking about this perspective from my experience and education. As a former superintendent at a school district, I included my principals, my activities director, my maintenance director, my IT person, as upper-level management. And the bill refers to upper-level management. So might need a-- just a more clarification of what upper-level management means. Each of those categories I just mentioned, whether it's an elementary principal or a maintenance person, has groups that they go to with their colleagues to talk about topics relevant to them. We would interpret this bill to say that those group meetings would require open meeting accommodations, or to follow those laws. So that's a concern, and maybe that could be answered also in what the definition of a quasi-public entity. So if the activities directors in our conference got together to decide where they're going to-- who's

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going to host the conference basketball tournament, would they need to post that meeting and invite the public to it? Which, by the way, if that was the topic, they'd probably fill up the gymnasium. So. We oppose LB951, and I'd try to answer any questions that I could.

BREWER: All right. Thanks, Kyle. Let's see if we have any questions for you. Questions for Kyle. All right. Thank you for coming in and testifying.

KYLE MCGOWAN: Thanks.

BREWER: All right. Next opponent to LB951. Welcome to the Government Committee.

JAMES DUKESHERER: Chairman Brewer, members of the committee, my name is James Dukesherer, J-a-m-e-s D-u-k-e-s-h-e-r-e-r. I am the director of government relations for the Nebraska Rural Electric Association. Our association represents 34 rural public power districts and electric cooperatives throughout the state, and the more than 1,000 dedicated employees of our system serve 240,000 meters across nearly 90,000 miles of line throughout Nebraska. The NREA is an association representing rural power districts. And as such, our board, made up of elected power district board members from across the state, which are identified under LB541 [SIC] as public officials, who would fall under the bill. Like any association, we have quarterly board meetings, we have committees. We've got a communications committee that discusses our rural electric. Nebraska Magazine goes out to 50,000 copies every month, one of the largest magazines in the state. We've got a legislative committee that discusses issues that come before the Legislature. We have a job training and safety committee that addresses and leads efforts to promote safety training to the line workers across the-- across our membership. Among other things, these meetings allow our members to get together and discuss the direction of the association, network with one another, and discuss the issues that impact the electric industry. Sometimes, we have frank conversations about the direction of our association. Our members come from within the elected-- electric industry and they pay dues to our association. Under this bill, we could have members-- have nonmembers that could attend our meetings, and they could have some of the association benefits without, without paying those dues. This bill, from the electric industry's perspective, doesn't just apply to the NREA. It also applies in other-- a number of other organizations. Our managers of our power districts get together regionally, in small groups sometimes. It would impact them. There's a statewide group

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called the Managers Association, where they meet, I believe, every other month, and they come together and discuss issues together. The Nebraska Power Association would fall under this bill. The NPA is a CEL-- is made up of the CEOs of public power entities from across the state, where they can come together. And in fact, in 19-- in the early 1980s, the NPA was created and recognized by state statute as a way for public power to meet together to resolve territorial disputes. The Legislature said, get these issues solved or we'll solve them for you, so the NPA was created. This group has CEO-level conversations about issues between utilities, mutual aid plans during emergencies, legislative issues and a lot more. Like-- likewise, these meetings, they should not be-- they're not public and they shouldn't be, and they wouldn't be as productive if they were. So it's for these reasons that we oppose LB541 [SIC]. Thank you.

BREWER: OK. Thank you, James. Let's see if we have questions. Questions. Questions. All right. Thank you for your testimony. OK. Opponents to LB951. Welcome to the Government Committee.

COURTNEY WITTSTRUCK: Good afternoon, Chairman Brewer and committee, committee members. My name is Courtney Wittstruck, C-o-u-r-t-n-e-y W-i-t-t-s-t-r-u-c-k, and I'm the executive director of the Nebraska Community College Association. So I'm testifying today in opposition to LB951 because of the burdens-- because the burdensome impact of this bill would likely serve to disincentivize Nebraskans from serving their communities in public office and on private boards. The Nebraska Community College Association, or NCCA, represents 5 of Nebraska's community colleges whose service areas cover the entire state, stretching from border to border, east to west and north to south. We have colleges located in 2 different time zones, 2 or 3 different area codes, depending on whether you count 531 or not, which, I'm still not sure as a native Nebraskan if I do or don't, but-- and in countless zip codes. So we are proud to offer Nebraskans living in every nook and cranny of the state the opportunity to pursue the life-changing benefits of higher education. Serving the entire state of Nebraska, however, does not come without its challenges, a major of which is simple geography. For every in-person meeting or event, multiple board members must travel many miles simply to attend, incurring travel costs along the way. Not only is travel costly, but it is time consuming, robbing board members of valuable time with their families. Because the NCCA is a private, nonprofit organization, we are able to be more flexible in our scheduling to limit the demands upon our board members and their time, while still remaining productive and adhering to our documented policies. As many of you know already, residents,

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especially those in smaller communities, are often forced to wear many hats. They are teachers, bankers, farmers, healthcare providers and small business owners by profession, but they are also mayors, council members and community college governors by choice. I don't need to tell you all that serving a-- in a public office is neither lucrative nor easy. I fear that addit-- the additional burdens imposed by LB951 will make it even more challenging to find qualified people willing and able to serve their com--communities in these important roles. For these reasons, I respectfully ask that you oppose LB951. But I know Senator Linehan's office and Senator herself are always really great to work with, so we're happy to do whatever we can. I apologize we didn't get to chat in advance. But we're always open to any discussions regarding how we can work together on this bill. So thank you, and I'd be happy to take any questions.

BREWER: All right. Thank you for your testimony. Questions for Courtney. Questions. All right. Thanks for coming in. OK. Any additional opponents to LB951? All right. We'll go to those in the neutral for LB951. Then, we'll invite Senator Linehan to come on up and close. I noticed you made a few notes. Welcome back.

LINEHAN: Thank you. As I said, I'm, I'm sure there, there's-- the bill can be improved, I have no doubt. But the idea that these groups are meeting-- so let's just take education. The Nebraska Association of School Boards has meetings, decides what they're going to support or not support in the Legislature, the public nor the press is in those meetings when they make those decisions. The Greater Nebraska School Boards Association has those meetings, comes-- they're here every day, and nobody has any insight to how they came to that decision. STANCE. NRCSA. Association-- Nebraska Association of School Superintendents. The Nebraska Association of School Superintendents, they're not even elected. And yet they have a whole association that comes here and tells us what we should or shouldn't got do. And we have no visibility on how they come to those decisions. I also have a new idea. I'm very uncomfortable with we don't know who's funding these associations. I, like Senator Conrad, that they were dues from the schools. I know they do pay some dues.

CONRAD: Yeah.

LINEHAN: But to hear that the first opponent testimony, that we get funding from all kinds of different sources and we don't have any-- funding usually equals access and influence. So I think we should know who's funding these groups that come here every day and tell us what

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all their members believe. I, I have been at state school board meetings, and have been then followed out by board members who tell me, keep doing what you're doing. Those people are not being represented here by these groups. Mr. Cannon's example that the Board of Ameritas has two elected officials on it, I think we should be concerned if there's seven. If there's seven elected officials on a private board, that's problematic. Because that's influence. It-- I just-- these groups who are here today are here almost every day, telling all of us this is what all the county board members in the state believe, this is what all the school board members believe, this is what all the superintendents believe. And yet we don't have- we don't- no one has any innovi-- any visibility on who's paying for them? Or how they came to that decision. It's problematic. I know, I don't-- Church councils, we-- that's not what we're doing here. And frankly, that's where the concern is. They don't want us to know how they get to the decisions that bring them in front of our committees and put them in the lobby upstairs or down the hall, I'm sorry, telling us, this is what we have to do because our whole association is there. We need some visibility on what they're doing. Thank you.

CONRAD: Thank you.

BREWER: All right. Thank you for your testimony. Let's see if we have some questions here. Questions? Questions? All right.

LINEHAN: Thank you.

BREWER: Thank you for bringing this bill.

LINEHAN: Thank you very much.

BREWER: All right. We're going to have a quick reset. Oh, I need to read in on LB951, 0 proponents, 4 opponents, 1 in the neutral. And that will close our hearing on LB951, and we'll reset for LB998.

SANDERS: Come on. Let's go. Move on. Let's go.

CONRAD: Are we ready? Right. I'm standing between you and a four day weekend. Let's go. All right.

BREWER: Welcome to your Government Committee.

CONRAD: Yes. Hi, Chairman Brewer and members of the committee. My name is Danielle Conrad, D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d. I'm here today representing North Lincoln's 46th Legislative District to

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introduce LB988. I'm gonna give you the revised version. This measure was brought to me by the Nebraska Association of Former State Legislators, as they have been conducting fundraising campaigns and beautification of our beloved state capitol. They have identified a disharmony in our statutes for how we accept gifts in Nebraska. Some gifts are-- there's kind of catchall boilerplate language in the budget bill, the mainline budget bill, dictating how we accept some gifts biennial after biennial. Some gifts are delimita-- the process for accepting some gifts is di-- delineated in certain aspects of state statute. Some are a little murkier. And so what this measure attempts to do is to define all of the relevant concepts. What kinds of gifts, what entities of government, are subject to these gift acceptance provisions, and then kind of lays out a process for decision making so that the relevant authorities get to give a thumbs up or thumbs down about whether or not to accept a gift that might come to a state agency, because sometimes they come with strings that we may not want to accept. But basically, our good friend, former Senator Vickie McDonald, is here today who chairs the executive-- she serves as the executive director of the Nebraska Association of Former State Legislators. She can help walk us through a little bit more about our colleagues' experience in regards to fundraising. And this is, again, just an, an effort to kind of update, harmonize how we accept different gifts across state government. The last point I just want to let you know is that the Department of Transportation reached out to our office with concerns upon bill introduction, that-- and they would like to have us take another step when gifted with a right of way of property. I wanted to know, for the record, Section 3 sub 4 of LB998 excludes an agency from the gift requirements if it has authority to receive such gifts as the Department of Transportation does. So, it will not impact them, but I wanted to make that clear on the record. So I wanted to get that in. I promised them, and thank them for reaching out, and my staff for including that. Urge your support of LB998. Happy to answer questions, and I'll be here for close.

BREWER: All right. Thank you for that opening.

SANDERS: You stay right there.

BREWER: Thank you for being very efficient here on a-- on a last day of the week. All right. So the way you explain the bill, that's not an, an amendment to the bill, that, that's just explaining the bill in, in detail.

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CONRAD: Yes.

BREWER: OK, so, we'll see if you have any opposition. If you don't, you had no opposition in the letters, so--

CONRAD: Oh, great.

BREWER: --this, this could very well be a consent calendar if we can sort it out, and, and everything seems to be what we need here. So.

CONRAD: Thank you.

BREWER: Any questions for Senator Conrad before we jump into testimony? Senator Lowe.

LOWE: Thank you very much. And thank you, Senator Conrad. What kind of gifts are you expecting to give us?

CONRAD: Well, I've been keeping a running list of gifts that I would like to give you, Senator Lowe, for various and sundry holidays.

LOWE: Please, not here.

BREWER: Well, that was an open question. All right. Anything else? All right. Then you'll stick around for close. All right, we'll hit it. We'll look at proponents to LB998. Welcome to the Government Committee.

VICKIE McDONALD: Good afternoon. My name is Vickie McDonald, V-i-c-k-i-e M-c-D-o-n-a-l-d. And I am the former senator-- I am a former senator, and the executive director of the Nebraska Association of Former State Legislators, which I hope you will all join once you're out of the session here. I am here on behalf of the Association in support of LB998. Thanks to Senator Conrad for her assistance and in the election of the bill. The Association supports the bill because it clarifies and makes available to the public clear rules for gifting property to the state. As we found when beginning a project to restore the gardens in the Capitol courtyards, rules governing gifts of cash are found in annual budget bills if you know where to look. We learned where to look for those rules, and to work with them. Other members of the public may find it hard to locate the rules and understand them. The bill places the rules contained in the budget bill in statute, with some clarifying language. Rules governing gifts of real property are in statute, but do not contain a definition of real property. That causes confusion, because part of our gift was drainage and irrigation

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systems for each courtyard, and other improvements to real property owned by the state. Hopefully, the definition of real property contained in the bill will make that type of gift easier in the future. Currently, there are no provisions for gifts of property other than cash or real property. That omission is corrected in the bill. There are separate statutes governing a gift to the state on death. Our association did not need to use those rules. Those provisions are, however, added to the bill with clarifying and coordinating language so that the State Acceptance of Gifts Act provides for gifts on death. The original sections are repealed. The university is exempt from current rules governing cash, and the university and the state colleges are currently exempt from rules governing gifts of real property. The bill exempts both from the act. Various state agencies have authority to accept gifts. The existing authority of those agencies is not affected by the bill. I have distributed a description of the existing law and the bill so you can see what is the current law, and then the proposed legislation and what, what the proposed legislation would do.

BREWER: OK.

VICKIE McDONALD: It just needs to be clarified. We, we had a terrible time giving the state of Nebraska \$1 million to take care of the flowers that we had them plant.

BREWER: Somehow seems just, just wrong that it should be that hard. And for those of us who had seen the fountains before the work was done and after, what a-- what an amazing change that I made. I mean, if, if you go look in that courtyard, when the flowers are out and the weather's a little better. It's, it's pretty amazing. And it used to be that was kind of an eyesore. So.

VICKIE McDONALD: It was time.

BREWER: Well done with that. All right. Let's see if we have any questions. Questions? I mean, this just seems so logical, I'm, I'm. All right, well, thank you for your testimony. I think we've, we got an easy, easy one here.

VICKIE McDONALD: Thank you. Appreciate it.

BREWER: OK. Any others testifying in support of LB998? All right. Anyone in opposition? Anybody here in neutral? All right. Senator

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Conrad, come on back up. We had 0 in opposition, 0 proponents, and 1 neutral is all we had, so.

CONRAD: Very good. Thank you, Chair Brewer. And thank you to Senator McDonald for being here and sharing that experience, and chairing the former legislators association. I just wanted to quickly say on the record, as I was starting my career in public policy, Senator McDonald was a member of the body, and she was as gracious and glamorous then as she is today. And she was somebody that I always really looked up to, and she was very, very kind to a young baby attorney with no political connections-- connections who was trying to figure this place out. And so I just want to thank Senator McDonald for, for her friendship and, and for her good work on behalf of, of the Association of Former Legislators.

BREWER: Well, let's do this. If you want a cover letter from me, let's see if we can't get this on the speaker's consent calendar.

CONRAD: Very good.

BREWER: It's, it's--

CONRAD: Thank you.

BREWER: --it's where it needs to be, and I'll see if we can't get that on-- All right. Any questions for Senator Conrad before we let her go? Yes.

HALLORAN: No, It's just an observation. I'm hoping that I can be subject to adjectives like gracious and glamorous. That's quite a compliment.

CONRAD: I think we can make that possible.

BREWER: Old and grumpy. All right. That will conclude our hearing on LB998. And we'll go ahead and clear the room and get ready for an Exec.