

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 25, 2022

**BREWER:** Good afternoon and welcome to the Government Committee. I am Senator Tom Brewer, representing the 43rd Legislative District. I serve as the Chair of this committee and really wish I would have brought my readers. All right, try this the old way. Oh, saved by the bell. Oh, hey. That's much better. The committee will take up bills in the order they are posted on the agenda. Our hearing today is your, your public part of the legislative process. This is your opportunity to express your position on proposed legislation before us today. Committee members may come and go during the hearing. This is just part of the process. They have bills to introduce in other committees and we do know that today Senator Sanders has to go at some point to Judiciary for a bill. Senator McCollister has one in Revenue and Appropriations?

**McCOLLISTER:** Yes, sir.

**BREWER:** Boy, that's a beating. And Senator Halloran is in Revenue right now.

**LOWE:** Run into the other.

**BREWER:** And do you have a bill? Good.

**LOWE:** I'm here.

**BREWER:** All right. For-- I ask that you abide by the following procedures to better facilitate today's hearings. Please silence or turn off your cell phones. Make sure I'm not guilty here. Please move forward to the reserved chairs when it's time to testify. The chairs up front are reserved for that. Introducers will make the initial statement followed by proponents, opponents, neutral. Closing remarks will be reserved for the presenting senator. If you plan to testify today, please pick up a green sheet in the back. Make sure to print it clearly so it can be read and hand it in to either the page or the committee clerk when you come forward. If you do not wish to testify, but you would like to record your name as part of the hearing, the white sheets are available on the tables in the back. If you have handouts, we'd ask that you have at least ten copies and give them to the page or the committee clerk when you come forward to have them distributed. When you come up to testify, we'd ask you to speak clearly into the microphone. Tell us your name and spell both your first and last names for the record. We will be using a light system for all testifiers today. You will have five minutes to make your initial remarks to the committee, then be aware of the fact the yellow

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light will come on with one minute to go and a red light when your time has expired. No displays of support or opposition to bills, vocal or otherwise, will be allowed. Committee members here with us today, we'll start on my right with Senator Blood.

**BLOOD:** Good afternoon. Senator Carol Blood, representing District 3, which is western Bellevue and eastern Papillion, Nebraska.

**McCOLLISTER:** John McCollister, District 20, central Omaha.

**SANDERS:** Rita Sanders, District 45, the Bellevue-Offutt Community.

**LOWE:** John Lowe, District 37, southeast half of Buffalo County.

**HALLORAN:** Steve Halloran, District 33: Adams County, Kearney County, and rural Phelps County.

**BREWER:** And--

**HUNT:** Megan Hunt, District 8, District 8, which is the northern part of midtown Omaha.

**BREWER:** Today we have a stand-in. Dick Clark is out of town so Laurie Holman has come in to fill in and Laurie will be our legal counsel today. Julie Condon, the committee clerk, and Bhagya will be our page and you're solo today? OK, we'll be-- you'll do fine.

**HALLORAN:** She's here.

**BREWER:** Oh, sorry, that chair just totally blocks you there. All right, so we do have both Peyton and Bhagya. All right, so with that, we will welcome Senator Hansen to Government Committee, your Government Committee, and start on LB1139 and I'll return your eyes.

**M. HANSEN:** All right. Thank you and good afternoon, Chairman Brewer and fellow members of the committee. For the record, my name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent District 26 in northeast Lincoln. I'm here today to introduce LB1139. This bill would prohibit organizations structured as 501(c)(12) organizations from making campaign contributions in the state. There's currently no IRS guidance on the political activity of 501(c)(12) organizations. According to a report by the Congressional Research Service, the need for guidance may not have arisen due to the fact that there are not as many of these organizations and they do not appear to participate in political activities as the same extent as other organizations, such as ones we know like 501(c)(4)s. For background 501(c)(12) organizations include

benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies or-- and electric companies, or like organizations. These organizations are tax-exempt by the IRS and under IRS rules, and I'll quote here, they are required to return the excess of net operating revenues over the cost of operations to member patrons. In other words, the cooperative must not operate for profit, must not operate either for profit or below cost. The excess is usually called savings rather than profit because it is the amount not spent to obtain services such as telephone, electricity, etcetera, for member patrons to operate the cooperative. A cooperative savings belongs to its member patrons, not the organization, and it must allocate the savings to its member patrons in proportion of the amount of business it did with each. And that's the end of the block quote. However, Nebraska, instead of returning its savers to members, we have begun to see certain 501(c)(12) organizations in our state spend that savings on campaigning for and against candidates for elected office. This is clearly not in line with their purpose of organization and it takes advantage of their member patrons who are supposed to be the recipients of all savings. This is not taking into account situations where member patrons may not agree with the organization's political decisions. And specifically in Nebraska, many of these member organizations are actually made up of local political subdivisions, further raising concerns that public dollars are being sent to campaigns. Political activity by 501(c)(12) organizations is so unusual the IRS does not have guidance in place to address it. And like I said, we're beginning to see it happen in Nebraska though. In the absence of this federal guidance, I believe the Legislature should act and prep Nebraskans by passing LB1139. With that, I'll close and would be happy to answer any questions.

**BREWER:** All right. Thank you, Senator Hansen. Questions on LB1139? Senator Hunt.

**HUNT:** I'm curious. You said that there's no federal guidance on this. Have any other states acted to create state guidance?

**M. HANSEN:** You know, I don't know. I can certainly look into that.

**HUNT:** OK, cool.

**M. HANSEN:** Overall, I have to say that the consensus seems to be that the political activity happening at all is rare. That seems to contradict just the IRS guidance on its own, but the IRS guidance isn't specific to elections.

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**HUNT:** Has it happened in Nebraska that we know of?

**M. HANSEN:** Yes.

**HUNT:** OK. Will we hear more about that from other testifiers?

**M. HANSEN:** Yes.

**HUNT:** OK, cool. Thank you.

**BREWER:** All right. Yeah, that's my question too. Any other questions? All right, you'll stick around for close?

**M. HANSEN:** Of course.

**BREWER:** All right, thank you for that opening and we will go to proponents of LB1139. All right, we will go to opponents of LB1139. Welcome to the Government Committee.

**JAMES DUKESHERER:** Thank you, Senator Brewer. Good afternoon, Chairman, members of the Government, Military and Veterans, Veterans Affairs Committee. My name is James Dukesherer, J-a-m-e-s D-u-k-e-s-h-e-r-e-r. I'm the director of government relations for the Nebraska Rural Electric Association. NREA is testifying today in opposition to LB1139. Our association represents 34 rural public power districts and electric cooperatives throughout the state. The more than 1,000 dedicated employees of our system serve 240,000 meters across nearly 90,000 miles of the line. It's the NREA's understanding that LB1134, LB1139, LB1185, which was heard in Natural Resources Committee this year, and LB482, which was heard by this committee last year, were all introduced with the intention of limiting the ability of the Nebraska Generation and Transmission Corporation from engaging in campaign-type activities. Unfortunately, each of these bills, each in their own way, cast a wide net and impact other cooperatives, including the electric cooperatives that are members of the Nebraska Rural Electric Association. Beyond the scope of those that are impacted by the bill, as Senator Hansen said, I would also call your attention to the broad language within the bill. Whereas previous bills covering this topic have, have attempted to limit co-ops' abilities to make campaign contributions or expenditures for or against the nomination or election of a candidate, LB1139 adds a line which would limit corporations from supporting or opposing the introduction, enactment, or the executive removal, or executive removal of any legislation or legislative resolution. I'll say that again. It would keep a corporation from supporting or opposing the introduction, enactment, or executive removal of any legislation or legislative resolution.

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Senator Hansen said that political activity was rare. Having a-- one of my members or an electric co-op come down to the state to testify on legislation is not rare and this bill would prohibit them from doing it. It says that if you're a 501(c)(12), you can't expend money seeking a legislative fix to a problem your business is having. Under this bill, you couldn't even expend money to attend or testify in support of a legislative bill or attend a legislative hearing. LB1139 greatly limits a 501(c)(12) organization's ability to engage in campaign and, and legislative activity for what can be no justifiable reason. It's for these reasons that we ask that you oppose the measure and do, do not advance it out of committee. Thank you.

**BREWER:** All right, thank you. Questions for James? Senator McCollister.

**McCOLLISTER:** Yeah, thank you, Chairman. Is it common for the members who represent to make campaign contributions to senators or senators that you support?

**JAMES DUKESHERER:** No. My members, the vast majority of them, are public power districts. They're not allowed to make a contribution to a candidate. The electric cooperatives that we represent, those headquartered in the state, I reached out to them and asked them that very question to the best of their-- they had never made a direct contribution to a candidate.

**McCOLLISTER:** I'm aware of-- some of the members that you represent made a contribution to an NPPD director up for reelection. Is that-- am I mistaken in the assumption?

**JAMES DUKESHERER:** You are. That's a very important distinction I want to make. I represent the Nebraska Rural Electric Association and I believe you're talking about the Nebraska Generation and Transmission Organization, which I believe is testifying after me.

**McCOLLISTER:** And they have?

**JAMES DUKESHERER:** You can ask them that question.

**McCOLLISTER:** Thank you.

**BREWER:** Senator Blood.

**BLOOD:** Thank you, Chairman Brewer. I am sincerely-- I'm not really sure why you're opposing this bill. Why are you opposing this bill?

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**JAMES DUKESHERER:** In particular, the lines that would limit one of my electric cooperatives from coming down here and testifying on behalf of-- on a bill.

**BLOOD:** And what line is that?

**JAMES DUKESHERER:** LB1139, page 3, line 3 prohibits them from supporting or opposing the introduction, enactment, or executive approval of any legislation or legislative resolution. That would mean a rural electric co-op, one of my members, couldn't come down here to testify on a bill.

**BLOOD:** So that's the only opposition you have to this bill?

**JAMES DUKESHERER:** As we get into the next bill, we'll get into some of the other issues--

**BLOOD:** But this bill?

**JAMES DUKESHERER:** --that I have, but, but yes.

**BLOOD:** OK, thank you.

**BREWER:** OK. Any additional questions? All right, thank you, James.

**JAMES DUKESHERER:** Thank you.

**BREWER:** All right, the next opponent. Welcome to the Government Committee.

**ROCKY WEBER:** Thank you, Mr. Chairman, members of the committee. My name is Rocky Weber, R-o-c-k-y W-e-b-e-r. I'm the president and general counsel of the Nebraska Cooperative Council. The council is a statewide trade association representing both agricultural and rural utility cooperatives and we appear today in opposition to LB1139. LB1139, as, as you already know, would prohibit corporations accepted under Section 501(c)(12) of the Internal Revenue Code from making any expenditure to the nomination or election of a candidate, from participating in any ballot question, or supporting or opposing any legislation or legislative resolution. This is a federal tax-exempt designation, part of the 501(c) general tax exemptions, and it, it generally identifies under this section life insurance associations, mutual ditch/irrigation companies, mutual or cooperative telephone companies, or like organizations, which includes electrical cooperatives as well. Unlike-- and I looked through the publication this morning, the IRS publication on all the 501(c)(3) organizations.

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There is significant restriction on 501(c)(3) charitable organizations and the amount of lobbying activity, if any, that they can participate in. Under several other sections, there are limitations where-- like for my organization, the trade association is a 501(c)(6). We can spend money on lobbying, but if we spend over a certain amount, we have to pay an excise tax and we have to make sure our members, if they give money to our political action committee, that that's not deductible. So there are restrictions on 501(c) organizations all the way through the code. When you get to Section 501(c)(12), though, I looked carefully and I saw no restrictions on lobbying activity for 501(c)(12) organizations. I'm here today because as members of the cooperative council-- we have three electrical cooperatives. These are headquartered in Alliance, Grant, and O'Neill, Nebraska. They collectively represent over 7,000 farmer and ranch owner members and cover over 12,000 square miles of rural Nebraska. In addition to-- the council's membership includes two telephone cooperatives, although there are a total of six rural telephone cooperatives in the state of Nebraska. Those that are members of the Nebraska Cooperative Council, the Glenwood Telephone Membership Corporation, located in Blue Hill, which has 2,200 telephone customers, 1,000 cable customers, and 3,000 broadband users. I'm not going to say that their member owners are that much because there could be overlap in those types of users. And also the Hemingford Co-op Telephone Company that's also doing business as Mobius Communications Company, which serves 3,000 member customers in the Nebraska Panhandle. The rural electric co-ops are formed by their member-owners to construct, maintain, and provide electrical, telephone, and now broadband and fiber service to their rural Nebraska member-owners. While co-op-- cooperatively owned by their members, these entities are private, nonpublic entities. They are not political subdivisions of the state of Nebraska. Their revenues are not derived from, nor are they considered public resources. Real utility cooperatives are managed by boards of directors made up of the member-owners who are elected at annual cooperative meetings. Board elections are not run as part of a state election system with other state or local political subdivisions. LB1139 would amend Section 49-1469, which currently allows a corporation, labor organization, industry, trade, or professional association, limited liability company, or limited liability partnership-- very general terms-- organized in the state of Nebraska to participate in the election process provided that certain reporting requirements are followed or if soliciting contributions, the creation of a separate segregated political fund will be required as well. Currently, the law does not prevent any corporation from participating in the political process as long as those requirements of LB49-- or a Section 49-1469 are met.

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LB1139 would single out rural electric and telephone cooperatives, which are exempt under 501(c)(12), from participating in the political process. Mutual or cooperative entities are formed by members having a common interest and desire to have common ownership and economic benefits of ownership. They're formed for the benefit of their members and communities and they're owned by large members of persons. They're still privately owned entities and should have the right to participate in the political process as their interests dictate. There's simply no public policy reason to single out these rural electric and telephone cooperatives. They are answerable to their members and if LB39 [SIC] were adopted, what is the next entity, I would have to ask, that's going to be subject to being removed from the political process? We believe that 11-- LB1139 raises serious legal and First Amendment constitutional issues and we therefore urge you to not send LB1139 to the floor of the Legislature. Thank you.

**BREWER:** Thank you, Rocky. Let's see if we got any questions for you. Questions? Yes, Senator Blood.

**BLOOD:** Thank you, Chairman Brewer. So bear with me, I got a couple of questions. So what would prevent the entities that belong to your organization from lobbying on behalf of themselves? Are they allowed to do that-- for participating in political-- I don't want to say lobbying.

**ROCKY WEBER:** Currently, they, they are allowed. One of my members can come down and come and address this committee on any issue it has. It doesn't have to be a member of my association for me to come represent them. We organize that way--

**BLOOD:** But--

**ROCKY WEBER:** --but any one of my members alone has the right to come spend the money day to come do that.

**BLOOD:** As written, though this bill doesn't prevent that, does it, as an individual? Only as an organization. Or am I reading that wrong?

**ROCKY WEBER:** Well, if it's a 501(c) entity--

**BLOOD:** --which is an organization.

**ROCKY WEBER:** --no funds of that entity could be used to support paying for the car, the gas, or the wages of any employee coming down to testify.



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**BLOOD:** OK, but if they were like, I'm ABC Electric-- I'm just coming up with names, OK? ABC Electric, I belong to this organization, but I'm going to come down representing myself, having nothing to do with the organization. I still can't do that under this bill?

**ROCKY WEBER:** No--

**BLOOD:** Why-- which line says that?

**ROCKY WEBER:** --because this bill specifically-- sorry. On page 3, the last thing it says, supporting or opposing the introduction, enactment, or executive approval of any legislation or legislative resolution.

**BLOOD:** But it says-- OK, but I read it as the organization. That's why I'm asking you. So you're saying that somebody who wasn't here representing the, the 501(c)(12)-- that's what I'm saying. If I, if I belong to an organization-- we hear it all the time with the university, right? They'll say, I work at university, but I am not here representing the university. I'm here testifying on my own behalf.

**ROCKY WEBER:** Well, an employee could pay for themselves to come down and testify, I suppose. But if the entity wanted to come down and assert its right to have political discussion with the Legislature, this prevents the entity from making any contribution or expenditure of any kind.

**BLOOD:** So it makes the individual business who is not identified as a member in your organization, that's is doing it on their own--

**ROCKY WEBER:** Right.

**BLOOD:** --it's precluding them from doing it?

**ROCKY WEBER:** Yeah.

**BLOOD:** I'm not sure I read it that way, but I, I'm going to read it further. Thank you.

**BREWER:** All right. Any other questions? Senator Lowe.

**LOWE:** Thank you and thank you, Mr. Weber, for being here. As you were looking at the 501(c) categories, those restrictions that you were referring to, are those federal or are those state?

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**ROCKY WEBER:** Those are federal. Those are federal for all the exempt classes of entities that would meet-- whatever exemption 501(c)(1), (2), (3), (4) through (19) or (20), there are certain requirements for them to meet it for federal tax-exempt purposes. And it doesn't mean they're fully tax-exempt either. They can be partially tax-exempt or whatever and they have to meet other requirements. But I looked specifically at lobbying and political activity, 501(c)(3), there is a lot of restrictions on 501(c)(3)s. And like I said, the (4)s and the (6)s and some others, there's some excise taxes that could be paid, but I saw no restriction in the 501(c)(12) area.

**LOWE:** And are the-- are there other states that do put restrictions on these 501(c)-- do you know?

**ROCKY WEBER:** Senator, I'm not aware of if any other state has put any restrictions on a 502(c)(12).

**LOWE:** All right, thank you.

**BREWER:** Additional questions? I got one I want to run by you. So the way you read the bill as, as written here, you, as the president and general counsel, would not be able to come and testify in front of this committee.

**ROCKY WEBER:** There would be two things they would be prevented from doing. They would be prevented from giving our political committee any, any money to, to make contributions. They would be prohibited, prohibited from that. They could be a member of ours-- and I could come over, but I doubt very much that the way this is written-- it says any expenditures. So even if the dues-- if part of the dues they pay me for is to come over and, and act with the Legislature on issues that affect them, I think somebody could, could logically go to them and say, you can't even pay dues to this organization because it is a lobbying organization. I mean, that's part of the services we provide to our members. And certainly they could not come down on their own and, and lobby the Legislature or on any legislation or even a legislative resolution.

**BREWER:** OK. Senator McCollister.

**McCOLLISTER:** Yeah. Thank you, Mr. Chairman. Just a clarifying point: your members don't make campaign donations directly. You do that through your PAC, correct?

**ROCKY WEBER:** Generally speaking, yes. I don't, I don't know whether they make any other kind of donation on their own. They're not

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restricted from making any other kind of donation on their own. So I don't know whether they do or not, but, but we do have a PAC and I, and I do know who contributes to the PAC.

**McCOLLISTER:** And so does the monies from-- for the PAC, they come from the co-ops or they come from individual donations?

**ROCKY WEBER:** It comes from the co-ops.

**McCOLLISTER:** From the co-ops. OK, thank you.

**BREWER:** All right. Any other questions? All right, thank you for your testimony.

**ROCKY WEBER:** Thank you.

**BREWER:** OK, next opponent to LB1139. Welcome to the Government Committee.

**KRISTEN GOTTSCHALK:** Thank you. Now see, when I put my readers on, I can't see you. I was going to loan you mine, but I thought I might need them for my testimony.

**BREWER:** Yeah, I'd look good in those red ones.

**KRISTEN GOTTSCHALK:** Senator Brewer and members of the Government, Military and Veterans Affairs Committee, my name is Kristen Gottschalk, K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k. I serve as a registered lobbyist for the Nebraska Electric Generation and Transmission Cooperative Incorporated. I'm here today to testify in opposition to LB1139. The Nebraska Electric-- I'm just going to refer to him as Electric G&T-- were-- was incorporated in 1956 under the Electric Cooperative Corporation Act and they serve to power the needs of nearly 150,000 consumers in rural Nebraska. The Nebraska G&T membership consists of 19 rural public power districts and one electric membership organization, which is considered a cooperative. The Nebraska G&T administers an all-requirements contract for wholesale power supply and delivery from Nebraska Public Power District. This contract runs from-- through 2035, resulting in approximately \$240 million in revenues for NPPD. In 2021, the G&T sold nearly 4.5 billion kilowatt hours to its members, making the G&T NPPD's largest wholesale customer. And much like other bills that have been introduced that, that James Dukesherer had mentioned in his testimony, the intent here is to not allow electric cooperatives to engage in political activities and seeks to restrict their ability to make political contributions or have a voice in the legislative arena.

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Under, under existing statutes, they are clearly authorized to do so and LB go-- LB1139 goes much further and will include all those other organizations that, that Rocky Weber spoke about in his testimony. And for clarification, the G&T is a 501(c)(12) and their co-op members are also 501(c)(12) organizations. And in other states where electric cooperatives are the primary source of rural electric providers-- and there's about 800 of those across the U.S.-- those are 501(c)(12)s and it's my understanding that none of them are restricted from providing political contributions but there could be some out there that I, that I am not aware of. You heard the definition of, of the 501(c)(12) and it is important to note that in the 501(c)(12) designation, there is a requirement that the members-- every member of that organization have a vote. And so for the Electric G&T, that means that 19 members have a vote. And we heard in the opening statement that decisions on expenditures and positions taken by the, the organization may be made by an individual within that organization or the leader of that organization and that's simply not true. Decisions on positions and expenditures for the organization must be made by the board of directors and that would include everybody who is a member of that organization for the G&T now, just wanted to clarify that as we go along. And I did want to bring up recently, there was an Attorney General Opinion, 21-005, and it expressly clarifies an electric cooperative is a private, not-for-profit corporation with all the use-- usual corporate powers and the Nebraska Accountability and Disclosure Act clearly authorizes an electric cooperative corporation to make political expenditures and contributions. And while the originators of this legislation clearly do not agree with some of the positions perhaps taken by the Nebraska Electric G&T, passage of legislation to limit their voice and the voices of any 501(c)(12) organization is really inappropriate and should be rejected by this committee. And I'd be happy to answer any questions you might have.

**BREWER:** All right. Thank you. Senator Blood.

**BLOOD:** Thank you, Chairman Brewer. Thank you for coming today. I have a disconnect and maybe you can help me with this.

**KRISTEN GOTTSCHALK:** OK.

**BLOOD:** So where does NGT-- NEG T get its funds to, to function?

**KRISTEN GOTTSCHALK:** The Nebraska Electric G&T receives its funds from its member organizations.

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**BLOOD:** OK, so they get their funds from their, their member organizations.

**KRISTEN GOTTSCHALK:** Um-hum.

**BLOOD:** How do the member organizations get those funds?

**KRISTEN GOTTSCHALK:** Well, there's funds that would come from the revenues that they derive from the sale of electricity to their consumers.

**BLOOD:** OK, so, so the consumers give those companies the money. They give it to you. So if it's ratepayers' funds, how does an NADC feel about that? They're OK with that?

**KRISTEN GOTTSCHALK:** This-- in this situation, the G&T is an electric cooperative--

**BLOOD:** Right.

**KRISTEN GOTTSCHALK:** --formed under the cooperative act in, in Nebraska statutes and the NADC has said that under those provisions, they are clearly authorized to make political contributions. Now, I will say this, that the Nebraska Electric G&T does not make political contributions. They were the administrator of an independent committee that private donations did go into and contributions were made out of that.

**BLOOD:** So it was a PAC or--

**KRISTEN GOTTSCHALK:** It's similar to a PAC, just considered an independent committee.

**BLOOD:** And so their goal was to help like-minded candidates that would support their efforts? Was that the goal of that committee?

**KRISTEN GOTTSCHALK:** That was the goal of that committee--

**BLOOD:** Interesting. OK, thank you.

**KRISTEN GOTTSCHALK:** --focusing on reliable, low-cost electricity.

**BREWER:** OK. Senator McCollister.

**MCCOLLISTER:** Yeah, thank you, Mr. Chairman, and thank you for being here--

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**KRISTEN GOTTSCHALK:** Um-hum.

**McCOLLISTER:** --Ms. Gottschalk. Are you claiming that there is First Amendment violation issues in this bill?

**KRISTEN GOTTSCHALK:** If you seek to limit-- and as, as Mr. Dukesherer pointed out, that it limits their ability to have a voice in the legislative process. That's a significant violation of their rights and yes. I wouldn't say--

**McCOLLISTER:** OK, thank you.

**BREWER:** All right. Any additional questions? Thank you for your testimony.

**KRISTEN GOTTSCHALK:** Thank you.

**BREWER:** We got a familiar face back here. Welcome to the Government Committee.

**TIP O'NEILL:** Well, thank you, Senator Brewer, members of committee. My name is Tip O'Neill, spelled T-i-p O'-N-e-i-l-l. I'm president of Nebraska Telecommunications Association. The NTA is a trade association that represents companies that provide landline, voice, and broadband telecommunications services to Nebraskans across the state. We oppose the introduced version of LB1139. The NTA has 21 members, five of which are telecommunications cooperatives organized pursuant to Section 501(c)(12) of the Internal Revenue Code. LB1139 would prohibit these companies from making contributions or expenditures for campaigns, for ballot questions, and for lobbying purposes. We don't understand the rationale for such a blanket prohibition. These companies provide important telecommunications services to their customers. They are involved in their communities. They have an interest in issues on the state and federal levels and they want the best representatives in their localities and in state offices. We simply believe the bill is unnecessary. I'd be happy to answer any questions you may have.

**BREWER:** All right, thank you. Let's see if we have any questions. Questions? All right, you're going to get off easy today.

**TIP O'NEILL:** Thank you.

**BREWER:** All right, any additional opponents to LB1139? All right, anybody here in the neutral? Welcome back to the Government Committee.

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**EDISON McDONALD:** I do always enjoy being here. Edison McDonald, E-d-i-s-o-n M-c-D-o-n-a-l-d, appearing for GC Revolt. We're a renewable energy development company and I originally had intended to appear in support, came in a little bit late, but I think that does reflect some of our comments are actually a little bit more neutral. What I think we really would like to see is especially the piece that does remove the, the usage of those PAC dollars. I think making sure that we do have our utility partners here engaging with us both at the state and the federal level is important and provides a tremendous amount of conversation and an ability to have a dialogue. However, those PAC dollars really kind of change the, the whole vibe as we're trying to figure out and how to deal with the regulatory schema as a private company trying to make sure that we can go and work on continuing to move our business forward. And we basically feel like we have the hands of government going and putting a hand on the scale. Out of the tax dollars that we use a private corporation pay, that's just not right. We need to make sure that those private dollars are not putting a hand on one side of the scale or the other. And with that, any questions?

**BREWER:** All right. See if we have any questions. Questions for Edison? All right, well, thanks for the drive-by.

**EDISON McDONALD:** [INAUDIBLE]

**BREWER:** All right, any additional in the neutral? Seeing none, Senator Hansen, come on back.

**M. HANSEN:** Thank you, Chairman Brewer and members of the committee. I apologize. I, I, I apologize. I thought we were going to have a proponent testifier who was going to maybe explain a bit more so I left it a little bit for them. Let me-- a couple of clear things: first and foremost, if there's any indication that I'm trying to prevent people from appearing before the Legislature, that was not my intent. I was looking at that language and I think that was just kind of extra language to clarify that we meant the same thing on ballot initiatives or incumbent officials or things like that to just catch all. So that-- certainly don't want to prevent people from testifying in the Legislature. And quite frankly, my goal was, as, as Mr. Edison just said, is to really prevent public dollars from going into campaigns. And we had a lot of confusing language just because this is a confusing issue, I think. But at the end of the day, especially through, especially through some of these cooperatives, you have this situation where, yes, the cooperative is a private organization. That is the ruling of the Attorney General. But if all of its memberships

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are public power, that means all of its money is coming from political subdivisions. And the current lay of the land at the NADC is once the public dollars go to a private organization, the private organization can do whatever they want with them. Even if they're only receipts are public dollars and even under IRS guidelines, they're supposed to refund those public dollars back to the public organizations. I am happy to keep working on this kind of however we need to. Ultimately, my thing was just this was an area I believe we were seeing public dollars go into campaigns. To me, I guess the most recent example is a PAC or an independent expenditure, which then spent some money both for and against candidates. So if that's a clarification that is important to people, I can recognize that. That still was spent on elections in Nebraska. And then finally, I'm trial-- trying to get to the bottom of some of this with some of the testifiers. One of the testifiers today, I think, was-- as I understand, their organization wasn't on my list of even 501(c)(12)s. The Cooperative Council appears to be a 501(c)(6), so this wouldn't impact them as an organization and I'm trying to piece that all together as how it would impact them. With that, yeah, happy to take any questions.

**BREWER:** Senator Blood.

**BLOOD:** Thank you, Chairman Brewer. Senator Hansen, the, the one thing I keep hearing is if we were to be any other organization that took public funds or took money from a business and then put it through another business, isn't that money laundering?

**M. HANSEN:** Yeah, I mean, it's only money laundering if it's illegal, though. That's the current--

**BLOOD:** Oh, it's legal money laundering.

**M. HANSEN:** Sure.

**BLOOD:** All right.

**M. HANSEN:** To kind of give your example-- the example that I would compare this to because it gets messy is, you know, imagine if, like the League of Municipalities started messing around in city council elections. Like the-- it would feel wrong and we would not recognize that's like what they're supposed to be doing.

**BLOOD:** Right.

**M. HANSEN:** Because we call it a cooperative, it all of a sudden sometimes has, like, a different lens on it.



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**BLOOD:** And they get their membership fee from those municipalities.

**M. HANSEN:** Yeah.

**BLOOD:** Yeah, to clarify what you're doing there.

**M. HANSEN:** Yep.

**BLOOD:** All right.

**BREWER:** Senator McCollister.

**McCOLLISTER:** Yeah. Thank you, Mr. Chairman. Are you saying that it may not be illegal, but the propriety of these donations could be in question? Would that be a fair way to state the case?

**M. HANSEN:** Yeah. I mean, for me, it's an issue of public policy. I think people are correct that the Attorney General and the NADC have ruled that they can't wade into this issue and that means it's us as a Legislature to define what we want. You know, again, like, I don't think public funds should go to campaigns just because there's essentially one organization between the public utility and the campaign.

**McCOLLISTER:** Thank you, Senator.

**BREWER:** All right. Additional questions? Senator Halloran.

**HALLORAN:** Thank you, Chairman Brewer. Senator Hansen, you can help us out here a little bit.

**M. HANSEN:** Sure.

**HALLORAN:** Who was, who was the proponent-- no-show proponent that you, that, that you thought was going to be here?

**M. HANSEN:** Sure, I had a constituent who had raised this issue who was going to testify on her own.

**HALLORAN:** And their knowing issue was that-- was what? Can you help us with that?

**M. HANSEN:** Yeah, that it was public money being used in campaigns.

**HALLORAN:** OK. So if this law were to be passed or if this law were in place right now, these folks couldn't have come and testify today.

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**M. HANSEN:** No, I don't think so. I would agree with that last sentence is stricter than maybe I intended. I would say, you know, for example, Rocky Weber represents a 501(c)(6) so he's not impacted at all. I'm confused as to kind of the structure of some of the other organizations as well and I'd be happy to get some clarification.

**HALLORAN:** But anyone that was structured as a 501(c)(12) could not have been here to testify if this law were in place now?

**M. HANSEN:** I mean, that's not my intent-- was not to ban them from public hearings. I agree that last well-- sentence isn't well written. I'll put it that way.

**HALLORAN:** OK, thank you.

**BREWER:** All right, additional questions? Thank you.

**M. HANSEN:** Thank you.

**BREWER:** That will close our hearing on LB1139, which had no letters in support, no letters in opposition, and no letters in the neutral. Now we will transition to LB1134. Stand by here for Senator Morfeld so he has some time to escape and evade.

**BLOOD:** He was late to his first hearing. We got stuck, couldn't get down the elevator. Like, we literally waited, like, 12, 15 minutes because one of the elevators is broken today.

\_\_\_\_\_ : Senator Morfeld is opening on a bill in Appropriations right now so he said he'll be back.

**BREWER:** Yeah, we'll, we'll just stand by. No, no, you're doing exactly what you're supposed to be doing so thank you. All right, we'll just kind of take a break for a little bit here.

[BREAK]

**BREWER:** --Committee, Senator Morfeld.

**MORFELD:** Thank you. Thank you, Chairman Brewer. Members of the Government Committee, for the record, my name is Adam Morfeld, that's A-d-a-m M-o-r-f-e-l-d, representing the Fighting 46th Legislative District. Here today to introduce LB1134. The purpose of this bill is to close a loophole in the current law that allows for public dollars to be spent on elections. We have an organization, the Nebraska Generation and Electric Cooperative, otherwise known as NEGT, that has

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spent public dollars to influence elections. NEGT is organized as an electric cooperative, but they do not generate or transmit electricity, nor do they sell electricity to end users. They have a pass-through-- they are a pass-through entity that negotiates contracts with NPPD on behalf of their members. These contracts are for about 20 years. NEGT's members are rural public power districts, which are political subdivisions of the state and public entities. These rural power districts pay in NEGT for the electricity that NPPD provides and NEGT takes a little extra for acting as the middleman. Then NEGT pays NPPD according to the contract. NEGT's budget entirely consists of money that they receive from their members. Happy to pass out testimony too if you couldn't track all that. Since their members are public entities paying with public funds, any reasonable person would conclude that their entire budget consists of public money. NEGT has formed a political committee and contributed significant sums to support and oppose candidates for elected office in Nebraska. NEGT claims that they are allowed to do this since they are organized as an electrical cooperative. They are considered a private entity and therefore all dollars that they spend are private dollars even if their entire budget consists of public dollars. The Nebraska Accountability and Disclosure Commission acknowledged that the current laws allow for this interpretation. To me, this is clearly in violation of the public's trust and abuses Nebraskans who expect that when they are paying their electricity bill, their money is going toward the provision of electricity, not for campaign contributions to a candidate they may or may not support. This loophole in our campaign finance law has allowed for waste, fraud, and abuse of public funds, in my opinion. LB1134 would close this loophole by clarifying that the current law prevents public resources from being spent on elections applies to entities that are organized under the Electric Cooperative Act, which would include the NEGT. Public power districts are public entities. Nebraskans don't have a choice in where they get their electricity from. They don't have a choice on whether or not they pay their electricity bills and their bill payments are being used to contribute to elected officials and politicians that they may not support. I think we can all agree that this is wrong and erodes trust in our public power system. I urge your favorable consideration of LB1134.

**BREWER:** All right, thank you for that opening. Questions for Senator Morfeld on LB1134? Senator Lowe.

**LOWE:** Would you like a few more letters to--

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**MORFELD:** I'd like a chart actually. I'd like a, you know, flowchart. I should have done that instead, just passed it out.

**BREWER:** OK, other questions for Senator Morfeld? Because of your routine, will you be able to stick around for close?

**MORFELD:** Yeah, yep.

**BREWER:** OK.

**MORFELD:** You bet.

**BREWER:** All right, we will start with proponents to LB1134. Welcome to the Government Committee.

**KATE HIGH:** Good afternoon, everyone, Senators. My name is Kate High, K-a-t-e, last name is High, H-i-g-h, and I'm here to support LB1134 and I am the person-- one of the many who filed the complaint with the Accountability and Disclosure Commission about the PAC that was formed and funded by NEGT. And I'm passing out my original complaint and you can see the issues that are outlined in this. And, you know, when you file a complaint with the Accountability and Disclosure Commission, the only time-- there's a, there's a cloak of confidentiality about this. I cannot talk about actions that-- pursuant that the Accountability and Disclosure Commission takes unless you win and I lost and I haven't been able to talk about it, except that the people who won have been more than willing to talk, so-- because they won, but I just-- I'm not going to read this all, but I just want to make a few points about this. One is that-- and I think Senator Morfeld was saying this, that the money that gets transferred into NGET [SIC] is under all times, always under the control of the public power districts because they represent-- they have delegates that go and represent their interests. This is the only way it's funded. And so it is, it is always-- I don't think it loses the veneer of public money. It is always public money. It is solidly public money all the way through. Also, I would just like to point out that in Nebraska, we have this very unique system of public power, but it makes it a state monopoly. It's not like if I don't like the way they're doing business, I can go someplace else and go get my public power-- I can go get my electricity someplace else. I have to do business. It isn't-- it-- there is no other way I can go. So I lived most of my life in rural Nebraska, Boone County, Madison County, in that area and I have written thousands and thousands and thousands of dollars to the Elkhorn Rural Public Power District to pay for electric bills. And I, I have never, ever, in my wildest imagination, would ever think that

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that money, when I paid my electric bill, was going to wind up in the pockets of politicians. I mean, when you pay your electric bill, you don't think you're making a campaign contribution, but here in Nebraska, you are being forced to. If you want electricity, then you're going to have to pay-- you, you are now being forced to pay for political contributions. I don't think that that should be part of your electric bill. They, they have little things-- like when you look at your electric bill, they've got all these little things they add on. Well, they need to add a line: oh, and political contributions. We need to know that. That should be disclosed. I also-- I just want to add two other things. One is that I worked for the Department of Health and Human Services for 30 years and I started out as a low-income energy assistance worker and I have literally authorized millions of dollars for low-income households to get heating assistance and cooling assistance sometimes in the summer. I never imagined when I was doing that act, I was also lining the pockets of politicians because part of that money was going to be able to go into and be used for political purposes. And then last of all, I would just imagine that all of us who are ratepayers are actually making campaign contributions, whether we want to or not. I was on the school board of our rural school district. I was making political contributions when I paid the electric bill. And you can imagine all the churches and the hospitals and government entities are now winding up making political contributions when they pay their electric bill. And I think this is not why we pay our electric bill. We want electric service. So that's my conclusion. Thank you very much for listening on this Friday afternoon when you all could be home doing something else.

**BREWER:** All right, thank you for your testimony. Let's see if we don't have some questions for you. Questions? All right, thank you.

**KATE HIGH:** Thank you.

**BREWER:** All right, we're looking for additional proponents to LB1134. We'll then go to opponents to LB1134. Welcome back to the Government Committee.

**JAMES DUKESHERER:** Good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. My name is James Dukesherer, J-a-m-e-s D-u-k-e-s-h-e-r-e-r. I'm the director of government relations for the Nebraska Rural Electric Association. We're testifying today in opposition to LB1134. This bill does not just impact the Nebraska G&T. It's true that Nebraska is served 100 percent by public power. We're the only all-public-power state. We have no for-profit investor on utilities in the entire state. Every

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consumer is served by a publicly elected board of directors. We are not, we are not all served, however, by public power districts. Nine of our association members are private, not-for-profit corporations with publicly elected boards. They are not political subdivisions of the state like a public power district. Defining of private corporations' property as-- resources as public creates a system of conflict within the Nebraska statutes. Line 3 of LB1134 defines a public resource and would include the property and the funds under the control of an entity organized under the Electric Corporate Corporation Act as public. Defining these system resources as public can have far-reaching impacts that go beyond the intent of the bill. For example, does defining electric cooperative infrastructure as public create an argument for my co-op members to avoid paying property taxes on their system infrastructure? LB1134 would say that a private corporation under this act cannot make a contribution to a candidate. Nebraska Statute 49-1469 says as a private corporation can make a contribution and we've seen Opinions by the Attorney General that reaffirm this fact. If you continue through LB1134, you'll see numerous clarifications in the existing statute that specifically stipulate how the statute is to be interpreted in regards to public officials, public employees, and their use of public resources. The statute provides numerous clarifications on public employees and public-- on what public employees and public officials are allowed to do, despite the prohibit-- prohibitions in the act against engaging in campaign activities. Electric co-ops under this act would have public resources, but they do not have public employees. Their board members are not public officials. The necessary clarifications listed in statute would not apply to them. As we often see, legislation introduced in an effort to impact a specific entity can have implications that reach beyond the intended target of the legislation. LB1134 casts an unnecessarily wide net of limitations on NREA's electric cooperative member systems and we ask that you oppose the advancement of this bill. Thank you.

**BREWER:** All right, thank you. Let's see if we have questions. Senator Hansen.

**M. HANSEN:** Thank you. Chairman Brewer. Can you just kind of walk me through the distinction? So you have some members you said aren't public? Just-- so some of your members are co-ops themselves that you say have publicly elected boards?

**JAMES DUKESHERER:** Correct. Co-ops elect their board of directors, have an annual meeting, whereas public power district elects their members on, on the ballot.

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**M. HANSEN:** OK, so they elect at an annual meeting. Who's allowed to vote at that annual meeting?

**JAMES DUKESHERER:** All the members of the co-op, the ratepayers.

**M. HANSEN:** OK, so and this isn't-- and they're the service provider-- an alternative to a public power district or do they work with a public power district?

**JAMES DUKESHERER:** It's an alternative. In Nebraska, we all have service territory boundaries.

**M. HANSEN:** OK.

**JAMES DUKESHERER:** So some of those-- most of our members are public power districts. We do have three electric cooperatives headquartered in the state and six of them that, that cross state lines that are electric cooperatives that serve Nebraskans.

**M. HANSEN:** Gotcha and so rather than being elected on the ballot, the same ratepayers would elect them just a pub-- an annual meeting?

**JAMES DUKESHERER:** Correct.

**M. HANSEN:** OK. So, so functionally, the, the main difference between that and public power is, I guess, it's charter-- is it-- I'm just trying to get the different distinction.

**JAMES DUKESHERER:** In, in very large part, they operate in very similar ways. There are differences and we're talking about one today where they're, they're private corporations--

**M. HANSEN:** OK.

**JAMES DUKESHERER:** But in very large part, as a consumer, you know, it's a not-for-profit, publicly elected board. They operate very much the same.

**M. HANSEN:** And if we tailored this in such a way to exclude those, would that remove your opposition or--

**JAMES DUKESHERER:** There was a bill last year that, that did not impact my members and we didn't testify on that bill.

**M. HANSEN:** OK, thank you.

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**BREWER:** OK. Additional questions? All right, thank you. Next opponent. Rocky, welcome back.

**ROCKY WEBER:** Thank you, Mr. Chairman, members of the committee. Rocky Weber, R-o-c-k-y W-e-b-e-r, president and general counsel of the Nebraska Cooperative Council, appearing today in opposition on behalf of the council to LB1134. And I'm handing it out-- oh my gosh, I haven't-- I thought I had that off.

**HALLORAN:** It's lucky you didn't have the Rocky theme for your phone.

**ROCKY WEBER:** I'm sorry.

**BREWER:** It's all right.

**ROCKY WEBER:** --appearing today and, and I'm handing out testimony and I don't want to repeat what I said in the last hearing, but I want to make sure that we understand the difference between an electric-- or a rural electric cooperative and a rural public power district. Rural public power districts are governmental subdivisions, political subdivisions of the state of Nebraska. They are nontaxed on their assets. They have elections that are conducted with the primary system and the state election system in November and handle their elections through the official election process. They are officials. They are public officials and their resources are public resources. Set that aside. We have in Nebraska several rural electric cooperatives under the Rural Electric Cooperative Act. These entities are private entities. They are not political subdivisions of the state. Their elections are not ran with state political subdivision elections. Their members who they serve own these companies. Each member has one vote to vote on the affairs of the company. They elect a board of directors at an annual meeting and then that board of directors hires management and is responsible for management. Either the president of the board of directors or 10 percent of the members typically can call a special meeting of the members to do member business, which would include recalling a member of the board of directors of a rural electric cooperative. Also, the funds of a rural electric cooperative are, yes, rates, but also there is service and other things that ratepayers pay and any money in excess of the actual expenses paid by the organization belong to and are held for the members of that electric cooperative in the form of either patron credits or patron refunds or capital credits. There's all sorts of different terminology used, but at the end of the day, when you're no longer a ratepayer or you leave, you have the right to have redemption of those credits that were used as capital by that organization. What LB1134 does wrongfully



is it equates rural public power-- or rural electric cooperative revenues as public resources. Those are not public resources. Those are dollars paid for services rendered. Very different than a public power district. Outwardly, they don't appear much different, but they are very, very different in concept and design and everything else. And the reason this all exists differently and why it gets a little confusing is 80 years ago, there was a Rural Electrification Act. The federal government made money available for rural electric cooperatives and people living in rural areas to form these companies in order to extend rural electric service in the areas where the government yet could not extend service or have the, have the money to do that. That's why these entities were formed as they are. As far as I know, only one of our rural electric cooperatives is a member of Nebraska G&T, where I think most of the issues are here. And, and I have two other members that belong to the Nebraska Cooperative Council that don't even buy energy from Nebraska. They, they, they buy their energy from other sources. And so I want to make sure-- and that's the problems with LB1139, LB1185 this year, and with this bill is there's a lack of distinction between a rural electric cooperative and a rural public power district and there are, there are significant differences because of their cooperative nature. And so when we put in legislation that we're going to ban electric cooperatives from doing certain things, it's not just the G&T that's affected, it's the rural electric cooperatives and there are thousands of rural farmers and ranchers that own them and how these systems are set up and owned. So I guess that's-- I want to end my testimony on that basis and just say that's why we oppose LB1134 so strongly as well. Thank you.

**BREWER:** Thank you, Rocky. And I think up until just a few moments ago, it was pretty hazy to me too. You finally cleared the white board and drew the picture that made that a little easier to understand. So let's see if we have more questions for you. Senator Hansen.

**M. HANSEN:** Thank you, Chairman Brewer. Rocky, can you share which, which members of yours are the rural electric cooperative, like what are their names?

**ROCKY WEBER:** So we have PREMA in Alliance, Midwest in Grant, and Niobrara Valley in O'Neill.

**M. HANSEN:** OK, gotcha. And so I think-- all right, that, that helps me in understanding. And I guess figure out if we got the language to, I think, get at the main intent of Senator Morfeld, which is public utility money being passed through a cooperative. If we could--

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**ROCKY WEBER:** Well, OK, I'm just going say for the rural electric, there is no public utility money that is passed through the rural electric cooperatives that are providing service--

**M. HANSEN:** Let me put it this way.

**ROCKY WEBER:** --to their members.

**M. HANSEN:** If we accept your three members, if we figure out a way to accept your three members, you-- would your opposition to this bill drop off?

**ROCKY WEBER:** And there's more rural electric than-- that are just members of mine in Nebraska. So there's several rural electric cooperatives. Not all of them are members of ours, but just, just so you understand that as well.

**M. HANSEN:** OK, I appreciate that.

**ROCKY WEBER:** But yeah, if you, if you do not affect the ability of the rural utility-- let's talk about rural utility cooperatives, which includes the rural electric cooperatives, which includes the 501(c)(12) cooperatives, the telephones and electricals, if you allow them to continue to participate in the public process like they currently do, you're probably not going to see me.

**M. HANSEN:** I guess-- so-- I guess I'm trying to figure out-- so I think there's, as, as the-- as Senator Morfeld laid out, as Ms. High testified, you know, there's a very specific scenario that got scrutiny. The NADC [INAUDIBLE] on it. If we figure out how to fix that specific scenario and exclude your members who apparently are-- stand on their own, would that remove your opposition?

**ROCKY WEBER:** Provided that the language is clear enough that it doesn't bleed over and stop these rural utilities from having a say in the public process--

**M. HANSEN:** OK.

**ROCKY WEBER:** --as they currently have had and always have had.

**M. HANSEN:** OK, thank you.

**BREWER:** All right, additional questions? Senator Blood.

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**BLOOD:** Thank you, Chairman Brewer. Rocky-- and my memory is apparently not working really awesome today so maybe I'm not remembering this correctly, but when, when we all did our interviews, when we were thinking about being senators, I'm sure almost everybody in here came to talk to you and your organization.

**ROCKY WEBER:** Right.

**BLOOD:** Don't you define yourself as a-- you're defined as a trade organization that provides government relations, regulatory, and I can't remember the third thing was to--

**ROCKY WEBER:** Education.

**BLOOD:** --oh, there you go-- to, to farmer-owned cooperatives, yeah?

**ROCKY WEBER:** Well, primarily farmer-- our membership is primarily farmer-owned cooperatives, yes, but we have three rural electric cooperatives as members and we have two rural telephone companies that-- cooperatives as members as well.

**BLOOD:** OK, but what I just said was how you usually describe your organization, is that not correct?

**ROCKY WEBER:** Yes.

**BLOOD:** All right. I was close. I forgot one of them.

**ROCKY WEBER:** Yeah.

**BLOOD:** It's only been like six, seven years.

**ROCKY WEBER:** Right.

**BLOOD:** Thank you.

**BREWER:** All right, any more questions? All right, thank you, Rocky. OK, additional proponents-- opponents, opponents, thank you. Welcome back to the Government Committee.

**KRISTEN GOTTSCHALK:** Thank you. As I stated before, my name is Kristen Gottschalk, K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k, and I am serving as a registered lobbyist for the Nebraska Electric Generation and Transmission Cooperative Incorporated. And I did want to emphasize again that the Nebraska G&T was incorporated under the Electric Corporation Act and its membership does include 19 rural public power districts and one electric membership corporation and that would make

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them a co-op. And again, they administer contracts on behalf of those members and those members do control the funds and the decisions that the Nebraska G&T does employ. LB1134 proposes to define board members, employees, property resources, or funds of a corporation organized under the act-- under the Electric Cooperative Corporation Act as a public resource, essentially saying that the private, not-for-profit electric cooperatives shall be limited in the same manner as a political subdivision of the state. Clearly, LB1134 seeks to impose restrictions, but not to provide the advantages of being a public entity, such as exemptions from playing [SIC] property tax and sales tax. And I do believe it needs to be noted that electric cooperatives are significant contributors to the property tax base as well as a sales tax base in the counties and communities that they do serve. This unique designation of resources of a private, not-for-profit public-- excuse me, this unique designation of resources of a private, not-for-profit as a public resource is targeting electric cooperatives and specifically the Nebraska G&T. So LB1134 does appear to be special legislation designed to silence a legitimate voice within the public power industry in Nebraska. And while the intent may be to restrict the Nebraska G&T, as was stated before, the bill will impact other electric cooperatives as well. It also creates confusions in the, confusion in the statute and this results in a muddy line between private, not-for-profit and governmental subdivisions of the state. And Rocky did an excellent job of outlining the differences between the two types of organizations. And again, the language from the Attorney General Opinion that clarifies the status of an electric cooperative, it's very clear an electric cooperative corporation is a private nonprofit corporation, not a government subdivision and that the Nebraska Accountability and Disclosure Act authorizes an electric cooperative corporation to make political expenditures in contributions. Not-for-profit electric cooperatives are an important part of Nebraska's unique all-public-power structure. Electric cooperatives are governed by the representatives elected by the consumer-owners of the cooperative, ensuring that local control and local interests are considered in the operation of the cooperative. The entire board of directors makes decisions on behalf in the Nebraska Electric G&T and not individual directors or employees. And again, that would, would showcase the confusion that the language in LB1134 seeks to implement and restrict employees or individual directors. The Nebraska G&T supports protecting the integrity of Nebraska elections to ensure that the voices of Nebraskans are reflected in the process and LB1134 does not provided a benefit to Nebraskans and should not advance. I did want to make a point. The comments were made that the G&T is directly making contributions to

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political candidates. The Nebraska G&T did perfect a loan to the NR--  
I always get that wrong--

\_\_\_\_\_: NRAE.

**KRISTEN GOTTSCHALK:** --NRAE PAC and it was done for operational assistance so that they could get a website and for-- so that they could begin the administration process at that PAC. So the G&T does not make political contributions out of its funds and that loan, while it has not been repaid yet, that all of those money transfers and information is public record and available to anyone looking through the accountability and disclosure records. With that, I would be happy to answer any questions.

**BREWER:** All right. Thanks, Christine [SIC]. All right, questions. Senator Blood.

**BLOOD:** Thank you, Chairman Brewer. Two quick questions: who makes up the NEGT board of directors? Are they elected officials or are they--

**KRISTEN GOTTSCHALK:** The different members, which are different-- either public power districts or the, the electric cooperative that are member, they either select a manager or one of their directors to serve in that role.

**BLOOD:** So there's no elected officials on that board of directors?

**KRISTEN GOTTSCHALK:** It could be a director of a public power district, which would be an elected official.

**BLOOD:** OK and you talked about the-- was that the Bloomquist loan that I remember reading about?

**KRISTEN GOTTSCHALK:** I believe that would be the loan you read about.

**BLOOD:** How long ago was that?

**KRISTEN GOTTSCHALK:** That would have been in 2019, in a non-election year.

**BLOOD:** That's a long time to owe someone money.

**KRISTEN GOTTSCHALK:** There wasn't a lot of money in the PAC--

**BLOOD:** Ah.

**KRISTEN GOTTSCHALK:** --or the independent committee, but.

**BLOOD:** All right, thank you.

**KRISTEN GOTTSCHALK:** Yep.

**BREWER:** All right, and another questions? Senator Hansen.

**M. HANSEN:** Thank you. So I guess, I guess just clarifying some remarks and continuing Senator Blood's questions. So is your argument that you didn't make a political donation, you just made a loan?

**KRISTEN GOTTSCHALK:** They made a loan to the PAC, yes.

**M. HANSEN:** OK, that hasn't been paid back?

**KRISTEN GOTTSCHALK:** That has not been paid back.

**M. HANSEN:** OK. And I guess what was the rationale for loaning the money if it wasn't for donation?

**KRISTEN GOTTSCHALK:** The rationale? Well-- and there's no way of knowing that a portion of that money didn't end up as part of a contribution to a candidate, but the intent in making the loan was to allow for the development and the operational expenses so that the PAC could begin its process.

**M. HANSEN:** OK. I appreciate that because I'm trying to walk the distinction because simultaneously you kind of threw out your testimony, defended your right to contribute to campaigns, and at the very end, pivoted and said you never had done it.

**KRISTEN GOTTSCHALK:** No. I guess what I was saying was that yes, there should be a right to contribute as an electric cooperative and under the corporation act that that should be retained.

**M. HANSEN:** OK.

**KRISTEN GOTTSCHALK:** But since it was specifically stated that the G&T was making direct political contributions, I wanted to correct that statement.

**M. HANSEN:** OK. And just to-- so clarify-- I just want to be 100 percent clear, so like is there a public list of who is on your board of directors right now?

**KRISTEN GOTTSCHALK:** Since they are-- the G&T is an electric cooperative, you can go to the website and get that information, but they're not under the same restrictions or requirements. They're not

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subject to the Open Meetings Act so the, the same amount of information may not be available.

**M. HANSEN:** OK, thank you.

**KRISTEN GOTTSCHALK:** Um-hum.

**BREWER:** All right. Any additional questions? Senator Hunt.

**HUNT:** Other than the loan that, that your organization made to start the website for the PAC, has your organization made any other political contributions?

**KRISTEN GOTTSCHALK:** I-- I'm going to state that that answer is no, but I'm going to pick over my shoulder to confirm that and that answer is no.

**HUNT:** OK, thank you.

**BREWER:** All right, Senator Hansen.

**M. HANSEN:** I apologize. Just so the record is clear, who are you getting the information from in the audience?

**KRISTEN GOTTSCHALK:** Darin Bloomquist, the general manager of--

**M. HANSEN:** OK.

**KRISTEN GOTTSCHALK:** Just wanted to be sure that my answer was correct.

**M. HANSEN:** OK. I appreciate it. And just following up, my last question is, is-- are you guys, like, going to sue the PAC for the balance of your loan and is there a plan to pay it back? Has there been any negotiation? Where does that stand?

**KRISTEN GOTTSCHALK:** I think it stands that they're willing to wait for repayment of the loan, but I don't believe that there's any intention to sue the PAC or the independent committee, excuse me--

**M. HANSEN:** OK.

**KRISTEN GOTTSCHALK:** --for the remainder of those monies.

**M. HANSEN:** All right, thank you.

**BREWER:** OK. Any additional questions? All right, thank you.

**KRISTEN GOTTSCHALK:** All right, thank you.

**BREWER:** Any other opponents? Anybody here in the neutral? Senator Morfeld, welcome back.

**MORFELD:** I'll take neutral as long as it's not negative neutral. OK, so this is my second bill on this topic. And you know, I guess I kind of came prepared for the smoke and mirrors that we heard a little bit here. So first, first and foremost, a loan that has not been paid back and is not expected to be paid back is not a loan. So I can get into the Black's Law Dictionary definition of that. We can go through the definitions. I don't think you want to hear me reading definitions on a Friday afternoon, but it simply is not a loan. And, you know, just simply saying that this is special legislation without laying out how it's special legislation is just really bad lawyering and really lazy. Because if you read through our constitution on what special legislation is, nothing that this bill does falls under any of the special legislation guidelines under our constitutional provisions for that. The closest that we come with corporations is granting to any corporation, association, or individual any special or exclusive privileges, immunity, or franchise, whatever. I'm not granting anything. I'm taking away their ability to be able to take ratepayer dollars and then contribute to political campaigns. And if there is a way to make this more narrow so it doesn't impact other entities or things that are unintended here, I'm happy to work with them. But just like in my first bill in Natural Resources, they come in with very disingenuous arguments. Everybody knows what happened. Everybody knows that they exploited a loophole that they didn't know was a loophole, but it was determined to be a loophole by the Nebraska Accountability and Disclosure Commission. And then they come in here and say, Oh, well, it was a loan. I just want to clarify. We're just not going to pay it back. That's not a loan. Or we may pay it back one day. I don't know. It's still not a loan. That's a choice that you're making just to transfer money to do something that you want. I am happy to work with the committee in whatever way to make this better. That being said, it does not make electric co-ops public entities. It just says that if you are a co-op-- or excuse me, it just says that if you are a co-op, then you can't make campaign contributions. And a co-op as a territory that covers any individual that's within that territory in that geographic location and they have to be able to pay for electricity. And in the state of Nebraska, we only have public power and so therefore, it is ratepayer dollars, in my opinion, public dollars. Happy to take any questions.



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**BREWER:** All right, questions for Senator Morfeld? Questions, questions? All right, seeing none. We will close--

**MORFELD:** Thank you.

**BREWER:** --on LB1134. We have letters to read in: one in-- a proponent, one in opposition, and zero in the neutral. That will conclude our hearings for today. Thank you.