

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 2, 2022

BOSTELMAN: All right. Welcome to the Natural Resources Committee. I'm Senator Bruce Bostelman. I am from Brainard and I represent the 23rd Legislative District. I serve as Chair of this committee. The committee will take up the bills in the order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. The committee members might come and go during the hearing. This is just part of the process, as we have bills to introduce in other committees. I ask that you abide by the following procedures to better facilitate today's proceedings. Please silence or turn off your cell phones. Introducers will make initial statements followed by proponents, opponents, and then neutral testimony. Closing remarks are reserved for the introducing senator only. If you are planning to testify, please pick up a green sign-in sheet that is on the back table. Please fill out the green sign-in sheet before you testify. Please print and it is important to complete the form in its entirety. When it is your turn to testify, give the sign-in sheet to a page or to the committee clerk. This will help us make a more accurate public record. If you do not wish to testify today, but would like to record your name as being present at the hearing, there is a separate white sheet on the tables that you can sign for that purpose. This will be a part of the official record of the hearing. When you come up to testify, please speak clearly and loudly into the microphone. Tell us your name and please spell your first and last name to ensure we get an accurate record. We will be using the light system for all testifiers. You will have five minutes to make your initial remarks to the committee. When you see the yellow light come on, that means you have one minute remaining and the red light indicates your time has ended. Questions from the committee may follow. There are no displays of support or opposition to a bill, vocal or otherwise, is allowed at the public hearing. The committee, the committee members with us today will introduce themselves starting on my left.

HUGHES: Senator Dan Hughes, eight counties in southwest Nebraska, District 44.

AGUILAR: Ray Aguilar, District, 35 Grand Island.

BOSTELMAN: And on my right.

MOSER: Mike Moser, District 22. It's Platte County and parts of Stanton County.

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BOSTELMAN: To my left is committee legal counsel, Cyndi Lamm, and to my far right is committee clerk, Katie Bohlmeier. And our pages today are Joseph and Malcolm. Thank you very much for being here today. With that, we will open our first hearing and that will be LB803. Senator Hughes, you are welcome to open when you are ready.

HUGHES: Good afternoon, Chairman Bostelman, members of the Natural Resources Committee. For the record, my name is Dan Hughes, D-a-n H-u-g-h-e-s. I represent the 44th Legislative District. I'm here today to introduce LB803. LB803 includes grandchildren in the definition of immediate family under Nebraska Revised Statute 37-455. This section refers to the Nebraska Game and Parks Commission limited permits for landowners. This bill also allows for up to 12 permits per qualifying landowner and up to eight of those permits may be issued to persons who are younger than 19 years of age. In 2020, the Legislature passed LB126. It allowed for additional limited landowner hunting permits. This was the first year and 2021 was the first year that it was implemented and everyone that I heard from really appreciated that they had the opportunity to go hunting with their children. The one thing I heard almost universally from those who went hunting is that they would really like to be able to hunt with their grandchildren. When-- several of you were here when this bill was passed. There was quite a discussion about this was just allowing landowners to trophy hunt and that quite frankly turned out to be not the case. From everybody that I've talked to, they were appreciative to have the opportunity, but they were certainly very appreciative to be able to hunt with their children. And like I said, they said it would be great if you could expand it to our grandchildren. And in my corner of the world in southwest Nebraska, they do publish a lot of pictures of deer that are taken during the rifle season and there were plenty of trophy deer taken so the landowners certainly did not shoot all the trophy deer. And we still need to remember that the landowners are going to hunt their land first regardless. The original intent of the bill was to let the landowners have an opportunity to harvest the deer and that would open up more acres, additional acres for the non-landowning hunting population. I-- 12 permits may seem a bit excessive, but eight of those have to be for under 19 years of age and you also have to qualify for each of those permits. So each of those permits has to have at least 80 acres of land ownership to go with it. So if you were to ask for all 12 permits, I mean, you would have to have at least nine-- you would have to have-- own at least 960 acres. So we're not piling up on the permits. We're just allowing grandparents to take their grandchildren hunting should they choose to do so. With that, I'd be happy to try and answer any questions.

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BOSTELMAN: Thank you, Senator Hughes. Are there any questions from committee members? Seeing none, thank you. Will you stay for closing? I ask for anyone who would like to testify as a proponent for LB803 to please step forward. Seeing none, anyone-- one more time, proponents. Seeing none, anyone like to testify as an opponent for LB803?

SCOTT SMATHERS: Thank you.

_____ : Thank you.

SCOTT SMATHERS: Chairman Bostelman, members of the committee, my name is Scott Smathers, S-c-o-t-t S-m-a-t-h-e-r-s. I'm the executive director of the Nebraska Sportsmen's Foundation, a 501(c)(3) sportsmen's educational group with 13,000 members statewide. And I don't know whether it was Senator Hughes or Senator Bostelman who decided to do this on Groundhog Day, but brilliant. The-- I'm also here today representing the Big Game Conservation Association, Big Red Outdoors, RAKS Game Supplements, and the Nebraska Deer Expo and we're here to testify in opposition to LB803. As Senator Hughes stated, as you may recall, the NSF and our members and our partners opposed Senator Hughes's bill, LB126, in the year 2020. And we opposed LB126 and we oppose LB803 for the same concerns we had back in 2020. We felt that LB126 would not provide a tool to help depredation because it did not mandate a higher doe harvest over buck. Depredation, as we were told, was the reason in the summer prior to 2020 as the reason for LB126. We thought it contradicted the proven science of the North American model of conservation for wildlife management, which would create a buck-only harvest mindset and create a negative-- should we encounter another EHD or like disease, as we have in the past, which decimated large populations around the state. We feared it would create a loss of revenue with a reduced permit cost of \$5 from the normal cost of \$20 for landowners. And we also felt it created special legislation for a small percent of total users within the state of Nebraska that deer hunt. We felt it opened the door to future attempts to ignore the North American model of management and we would see an influx of attempts to control wildlife through legislation as opposed to through the Game and Parks and management duties. Well, here we are in 2022 and our fear of more attempts has come true with LB803. Although we do not have as strong as opposition to LB803 as LB126, we are obligated to continue our fight against additional permits. 2021 was the first year for LB126 and quite frankly, in most of our partners, members and our conversations around the state, everybody, including landowners that did participate in the program, feel that we need at least three years-- for five years of status-- stats and data gathered through the Game and Parks before we make any additional

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changes and/or subtract the program. I have included in your packets the numbers that have been provided by the Game and Parks both publicly and to myself and to our partners and our members around the state. In 2021, total deer permits sales in the state of Nebraska were 138,264, which of that number, 12.5 percent were landowner permits. Now, that includes your normal \$20 landowner permits that have been in existence for quite a while. Excuse me. The landowner permits alone as they stand each individual year in 2019 were 14,296; 15,511 in 2020; and in 2021, 14,575. That's the normal \$20 landowner permit. You had of total of another 3,690 were sold to the special weekend, which 190 those were nonresident permits. The-- 512 of the permits were to those 19 or younger. Ten percent or 686 of these permits had not had a deer permit for at least six years and could be considered new hunters or lapsed hunters coming back to the family. Twenty-two percent did not buy another permit for 2021. That's 811 landowners. Twenty-one percent did not have a record of any other hunt or fish permit. Roughly 13 percent of land owners, 20-- 2,335 of them, bought both the \$5 permit and the \$20 normal landowner permit. So the real gain of hunters, if you will, was 1,355. If you follow along, then the harvest numbers were as follows for the weekend, which, quite frankly in a sense, contradicts the fact of they weren't horn hunting or trophy hunting. Trophy hunting is a definition that can be deemed by anybody at different-- if you're strictly taking racks, that can be considered trophy hunting, depending upon the size. Unfortunately, we do not have a method from check-in to tell the age and size of the deer, but 888 deer were harvested-- 24 percent success rate-- 590 bucks, 100 does of the white tail so 83 percent of the deer taken were bucks and white tails. Mule deer, which would probably be in Senator Hughes's district, 177 bucks, 21 does, so 89 percent-- 88.5 were bucks. Seven-hundred-sixty-seven total bucks were taken, 121 does; 16 percent of the harvest. Again, our fears are coming true. The-- turning into not depredation, not management, but strictly getting out first to kill big racks and kill deer. I also included-- and I won't have time-- the harvest numbers from each unit, the highest units of harvest. And if you look, three of those are eastern Nebraska, two were cent-- western Nebraska, one central Nebraska. So again, where's our problem with depredation? It kind of helps guide that saying. We're not opposed to getting landowners out the week before, but we think 12 is a-- I'm time, sorry.

BOSTELMAN: OK. Thank you, Mr. Smathers. Are there questions from committee members? Senator Groene.

GROENE: So you're in opposition?

SCOTT SMATHERS: Yes.

GROENE: Oh, I didn't catch--

SCOTT SMATHERS: Yes.

GROENE: --thought maybe--

SCOTT SMATHERS: We are in opposition.

GROENE: All right and you're getting a lot of calls from hunters?

SCOTT SMATHERS: Yes, we have. Now, if you remember LB126, a large member-- large number of our members reached out and contacted senators in this committee. Through the relationship with Senator Hughes, his staff, and some other senators, we chose not to release that avenue at this point. We're all in agreement that we need to look at something from depredation. We would have no problem with LB803 or LB126 if there's a component of a higher doe-to-buck ratio of harvest mandated. And I would love children to be out in the field all the time.

GROENE: So how many were killed again in total through this weekend before?

SCOTT SMATHERS: The weekend before, a total harvest of 700-- or, excuse me. We had 590 bucks in white tail and 100 does. Of 690 white tails, you had 198 in mule deer were taken in that three-day weekend.

GROENE: But a pretty good sized percentage of those would have been taken by the same farmers because they would have been out there at sunrise on Saturday.

SCOTT SMATHERS: May have been. Again, it's an inconclusive state--

GROENE: Yeah.

SCOTT SMATHERS: --statement either way, I mean, reality-wise. But again, if you go back to the context of two and a half years ago, LB126 presented as a depredation bill.

GROENE: Yeah.

SCOTT SMATHERS: And if you're not taking does, you're not controlling depredation.

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GROENE: Did we try to-- I thought we had that debate that we shoot only does.

SCOTT SMATHERS: Oh, we, we had a lot of debates for a long time.

GROENE: Well, we, we debated to let them have the weekend after the season.

SCOTT SMATHERS: Yep. I'm-- I will tell you most of our membership base-- we still have some of our hardcore members that don't want a special season period, but if it's geared towards youth and depredation, we would jump on board 100 percent.

GROENE: If it was the weekend after.

SCOTT SMATHERS: If-- you can take the week before if you want, but let's--

GROENE: No.

SCOTT SMATHERS: --talk about the depredation and let's talk about youth. Let's not talk about-- you know, what's funny is that somebody asked me, well, weren't you a grandchild, Scott? I said yes, but the bill clarifies 19 and under. I mean, but that's the impression people are getting, a grandchild. They don't read the determination of 19 and under.

GROENE: Do you have a grandchild?

SCOTT SMATHERS: I have three and one on the way.

GROENE: And you will take them probably hunting the first weekend then.

SCOTT SMATHERS: I have land and I did not participate in that tag because I bow hunt and they go bow hunting with me from September 1st up to a rifle season and then I send the grandkids home during rifle season and I go hunting with the big boys.

GROENE: Thank you.

BOSTELMAN: So I thought LB126 was a bill that provided some opportunity for a landowner-- not depredation, but it was for the landowner to have the opportunity to go harvest an animal prior to other general with the idea of if they go and harvest that animal, then they would let other people come on. But the whole thing was as a

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opportunity for that landowner to have that-- those three day-- those two, three days that weekend before, as-- since a landowner-- it's their land, whether the farm or whichever, you know, that that purpose was to give that landowner that opportunity and not necessarily depredation.

SCOTT SMATHERS: As the bill worked through the system, that's what it became, yes. I'm simply stating the facts that when the bill first introduced to us and we were aware of the bill and the conversations that Senator Hughes had with the press and his plans, it was a depredation bill. And we still wouldn't want to work in that manner to affect depredation because, as you know, depredation across big game species is becoming even a bigger conversation since that timeframe, timeframe.

BOSTELMAN: The depredation bill, I thought, dealt with our elk and not were expended and that was our depredation bill, not LB126.

SCOTT SMATHERS: LB126 originally was designed as a depredation bill due to crops. That's what Senator Hughes stated in the paper.

BOSTELMAN: So the other thing-- and we've talked about this before. I mean, the portion of this bill that I like, quite frankly, is it's getting more, more kids out.

SCOTT SMATHERS: Don't disagree.

BOSTELMAN: So are you opposed to the two additional adults--

SCOTT SMATHERS: Yes.

BOSTELMAN: --or-- so how many, how many youth permits then?

SCOTT SMATHERS: We'd be fine with a total number of eight and maybe six of those youth and two of those adult.

BOSTELMAN: So you just don't want the-- you just-- you're opposed to the two-- the extra two adults, the four adults.

SCOTT SMATHERS: We're opposed to the weekend itself, but if we have to live with something, as we always do, that's the avenue we would want to see it, again geared toward a higher doe ratio requirement and the kids.

BOSTELMAN: Well, there's-- and I appreciate that. I mean, I-- there's a lot of people that lease land out there for that rack purpose and I

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think that's what I'm-- I believe was Senator Hughes is trying to do is trying to give that landowner the opportunity for their family to get together and harvest before others if they can. And the youth portion of it, I think, is a good--

SCOTT SMATHERS: I don't disagree and in the portion of the assessment I couldn't get to because of timeframe is when you look at long-term statistical value of harvest of a particular species within a certain zone and if you look at the areas where the highest harvests were, what's the long-term effect if we're constantly doing an 85 percent or better harvest of bucks only in a particular region? There's only so much capacity per square acre of wildlife and, and we all know wildlife don't act as agricultural ranch animals. They don't stay within the fenced bounds. They move amongst everybody's property. So we understand that now in addition-- as Senator Groene said, they obviously probably would have had some of these deer harvested during the regular rifle season, yes. We don't know for a fact one way or the other and we never will, but what-- fact is that one particular land, whether it's three-- 3,900 acres or 180 acres, what's the total capacity of the elk or the-- no, excuse me, I'm used to hunting elk-- the white tail and the larger bucks that you want reproducing versus the immature bucks on the property? That's something we don't know and we have to look at. I can tell you from my personal experience on my own land and we manage strictly for, for deer, I know what that number is when you take count of the large number after the EHD system. It's taken us seven years to get back to a quality deer.

BOSTELMAN: I appreciate that. This is still tied to that 80 acres, though, one permit per 80 acres, so--

SCOTT SMATHERS: Yeah, but if you have-- OK, that's fine, but they're still-- in those regions, you still had 85 percent of your bucks of total harvest taken. So whether it's one permit per 80 or one for 180, you still have an overabundance of bucks being taken versus the doe.

BOSTELMAN: OK. Any other questions? Senator Moser.

MOSER: Well, this probably isn't-- you're probably not the right person to ask, but I think you know the answer. Are permits gender-specific? When you get a deer permit, are you supposed to-- do-- does the permit declare what sex of animal--

SCOTT SMATHERS: Yes.

MOSER: --that you can shoot?

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SCOTT SMATHERS: Yes. There's--

MOSER: And what ratio do they offer those?

SCOTT SMATHERS: That would have to be an answer from Mr. McCoy at the Game and Parks. There's a wide range of, of-- outside the special weekend of antlerless-only seasons, bonus tags of certain areas of heavy deer populations, earn a buck, those types of things and mentalities. So Mr. McCoy would have to answer that, answer that-- how many permits the landowners ask for of what the ratio was.

MOSER: What, what's the ratio of statewide bucks to does?

SCOTT SMATHERS: Well, again, you have to throw in there's, there's two statewide buck permits available that are higher priced that allows you to shoot with any district or draw unit. In the other units, it's based upon capacity carry and, and statistical numbers of history of what each region like-- so you end up with the blue northwest and blue southeast, two of the more heavily populated draw tag units, and that's Lancaster County south of Richardson to the, to the boot. It's a higher buck ratio to doe ratio. But other than that, I don't know, to be honest with you.

MOSER: All right. Thank you.

SCOTT SMATHERS: Um-hum.

BOSTELMAN: Senator Groene.

GROENE: So how many bucks are taken a year in Nebraska?

SCOTT SMATHERS: Again, that would be a question for Mr. McCoy. I did not, I did not look at the total number of the 136,000.

GROENE: Just wondering what percentage this was of the total.

SCOTT SMATHERS: That's what we're waiting for. Alicia, when I asked her for it, was still waiting to calculate because the season just closed on the 17th of January for late season, so.

GROENE: So we don't know?

SCOTT SMATHERS: Right.

GROENE: You don't know yet, but in years past, do you have an idea?

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SCOTT SMATHERS: I couldn't tell you. That would be Mr. McCoy's response-- that, that would be his expertise.

GROENE: Is he testifying or--

SCOTT SMATHERS: He-- they're testifying behalf-- later in neutral.

GROENE: All right, thank you.

BOSTELMAN: OK. Thank you for your testimony.

SCOTT SMATHERS: Thank you, Senator.

BOSTELMAN: Next opponent. Good afternoon.

CHAD PODOLAK: Good afternoon, Senator Bostelman and members of the Natural Resources Committee. My name is Chad Podolak, C-h-a-d P-o-d-o-l-a-k, 1409 53rd Street, Columbus, Nebraska. Thank you for the opportunity to share some concerns that I have with LB803 and the early landowner season. Three areas of concern in general. Nebraska has gone a long ways with regards to providing trophy and mature buck opportunities for hunters. Other trophy states like Kansas and Iowa have basically no firearms season during the November rut when bucks are the most active. Nebraska's trophy opportunities have trended positively with the traditional nine-day firearm season and I'm very thankful for that. This early landowner season adds three days for a 33 percent increase in the amount of time in the woods with a rifle during the rut. I feel like this will eventually have a noticeable and negative impact on the quality of deer that all of us deer hunters are able to enjoy, as more deer are likely to be taken prematurely or if they had another year, they could be a wall hanger. Deer hunters are just that. They're deer hunters that enjoy all the same passion: the outdoors, the animals, the sunrises, making memories together, not as landowning deer hunters and nonlandowning deer hunters. The special season separates and discriminates deer hunters based on land ownership. It pits landowning deer hunters from nonlandowning deer hunters who are not asking for it. We're just deer hunters. The third area of concern is, is in regards to the youth that you mentioned earlier, Senator Bostelman, and I really think that Game and Parks has done a tremendous amount of-- a tremendous job in getting kids off the couch and into the outdoors over the last number of years, with a variety of programs that are, in my opinion, really awesome for youth today. More and more, there's a perception that hunting is a rich-person sport. Imagine, if you don't mind, walking into your local eighth-grade classroom in a school in your area and you ask all the

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eighth-grade kids who deer hunt out in the hallway. Ten kids follow you out into the hallway. Then you ask them, raise your hand if your folks or your grandfolks own 80 acres or more that have deer on it then you can hunt-- that you can hunt on that, on that ground. Two-- maybe two of these eight kids raise their hand. Then you get to say to them, congratulations, you get a hunt with a rifle for a buck three days on the weekend before any of your other classmates or any of your other deer hunters can hunt. So at least a couple of kids are pretty excited. Then you get to look at the other eight kids and turn to them and say, what? This is fair because why? In my opinion, it's a scenario where some will leave with a different opinion as how they fit as a deer hunter, as a deer hunter within, within their own deer hunting group. Now their deer-hunting status and opportunities are different because their family doesn't own ground. I believe this landowner-- land-only-- landowner-only season puts that segment of our youth, the nonlandowning kids, at risk to keep them engaged, not the kids that have grandparents' grounds or, or parents' ground that they can, they can hunt. I don't know the history of how this special deer season came about. Maybe some of you, maybe some of you do. The fact that it didn't come from the Game and Parks to me is, is alarming as a, as a hunter right out of the gate. I have a great amount of respect for the staff, the biologists, the commissioners as it relates to their pulse of what we as sportsmen and women want for seasons and opportunities to enjoy Nebraska's awesome outdoors. And they really do, I believe, their best job they can to balance the pros and cons of all these competing interests. So I'm thankful for the Game and Parks for their efforts in that regard. In my opinion, while this season initially sought out to maybe solve one problem, now other-- three others, in my opinion, have surfaced that I believe create very unique and uncomfortable situations for us as deer hunters, those that own land and those that don't. And now kids that didn't hardly know the difference, they, they now do. So I thank you for the opportunity to share some thoughts with you this afternoon around LB803 and the early landowner season and I welcome any questions you might have.

BOSTELMAN: Thank you, Mr. Podolak. Are there any questions? Senator Moser.

MOSER: You own enough acres to hunt early?

CHAD PODOLAK: I do.

MOSER: So how many permits would your acres allow you?

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CHAD PODOLAK: Typically about four. We usually use about four landowner tags a year with my family. My, my hunting group is bigger than my family and so I didn't want to look at the young kids in the group and say I went out and hunted the weekend before and shot a big buck and starve them of that opportunity. So that's my-- that's the reason I didn't participate in it as a landowner because I felt like it divided the hunting group that I'm involved with.

MOSER: OK. Thank you.

CHAD PODOLAK: Um-hum.

BOSTELMAN: Senator Groene.

GROENE: Do you allow other hunters on your land?

CHAD PODOLAK: Yes.

GROENE: So if you went out and shot 12 with family, you probably took care of your problem for that year didn't you and you wouldn't need somebody else to come on and hunt?

CHAD PODOLAK: That would-- for our-- for the ground that we have access to as landowner-- as a landowner, that would be, that would be a lot, yes.

GROENE: So why allow anybody to hunt? So do you see where I'm going with this? It might start closing hunting ground because there are landowners that, are there not, that allow hunting because they want depredation, right?

CHAD PODOLAK: Um-hum.

GROENE: So now if they can shoot 12, immediate family, could it be "precededly" close a lot of hunting ground to those other kids in the class? Because there's no reason to allow hunters on my land. I've already killed 12.

CHAD PODOLAK: Right. I do think that's one of the things that a landowner is, is allowed to do is, is how do they want to manage the opportunities for their family and their kids' friends? And, and what impact does that have with the overall health of the herd? I'll tell you in, in the area we hunt, which is the Wahoo rifle area, Butler County in specific, last year we shot almost 11-- we-- our group shot 11 deer last year with family and friends. And this year we didn't shoot a one and it was driven because we were really concerned with

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the health of the herd and we didn't see the number of deer that we normally do. So we do that naturally kind of on our own, even though we have the tags. We're awfully interested in that conservation aspect and making sure they're at a healthy place that we can enjoy them for a period of time.

GROENE: There was disease again this last year, wasn't there?

CHAD PODOLAK: I don't know-- maybe it was-- maybe they had COVID. I don't know what was getting them, but they were, they were-- we weren't seeing them.

GROENE: Thank you.

CHAD PODOLAK: Blame everything on COVID.

BOSTELMAN: Senator Moser.

MOSER: You didn't see deer at all or you didn't see deer that were worth shooting?

CHAD PODOLAK: We were seeing about 30 percent of the number of deer we normally would see. Now if we had-- we did have a couple of young hunters that probably need-- that had a chance at a nice buck that probably needed a little more time in the range. So they had an opportunity and they missed a couple of them, but there-- for us in our specific area, way down, less than 30 percent of, of what we would see-- consider a north-- a normal healthy amount.

MOSER: So you don't hunt where you live. You live in Columbus, but you hunt by Wahoo?

CHAD PODOLAK: By David City/Schuyler area, um-hum.

MOSER: Yeah. On Facebook, I see pictures of some people who live up around Shell Creek and they have herds of deer on their place, 25, 30 head chewing on the trees and--

CHAD PODOLAK: Right.

MOSER: --and drinking out of the ditch and chill-- and along Shell Creek. So maybe you need to get their names and see if you can go hunting up there.

BOSTELMAN: Senator Gragert.

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GRAGERT: Thank you, Chairman Bostelman, and I'm sorry for getting here late. I was in another committee and I would just like to ask you your opinion. Does-- do you feel this special season helps or hinders the sporting-- the sport hunter and especially from the sport hunter from out of state to come, come to Nebraska?

CHAD PODOLAK: Well, as a hunter for a number of decades, it's the first time that I've experienced we now have different opportunities, depending on whether you own ground or not. And I don't know if that's what us hunters are asking for.

GRAGERT: Are you familiar, are you familiar with the success rate in Nebraska over the years? Like last year, I understand it was 40 to 50 percent success rate. How do you feel that-- you know, with this kind of first-season thing with sport hunters and landowners and how do you feel that that's been affected?

CHAD PODOLAK: In, in my opinion, a, a large percentage of the people were not aware of it from the conversations I've had with other hunters in the, in the areas that I'm involved with. They didn't even know that there it an opportunity or, or when they did find out, it was too late and then they had to go somewhere and physically get a hard, hard-- you know, a paper permit and so some of them-- but there, there just wasn't a lot of awareness around it from my perspective. But I think those that are excited about it are excited about it primarily because they have a chance to have a crack at a trophy animal when, when the rut is on and it's kind of-- they-- there's not a lot of other competition out there for them so it's, so--

GRAGERT: Do you hunt?

CHAD PODOLAK: I do.

GRAGERT: So that, that first weekend after the deer have been shot at, it's pretty tough to see them again?

CHAD PODOLAK: The-- some end up in a Ziploc bag and some are smarter and they were able to get through it and--

GRAGERT: You as a landowner, if you had a deer population problem like mentioned by Senator Moser, and a special season like this, would you not say that it'd be better to take does than bucks?

CHAD PODOLAK: Fortunately, if you're familiar with the opportunities we have, we have a-- at least in the area that I'm involved with, we have a lot of opportunities to manage the deer herd if we think

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they're overpopulated, as, as some of us, as-- we have crop. We, we endure a fair amount of crop damage. And if we think it's excessive, we'll allow guys and gals to get in there and kids to get in there and harvest does late season. It's a, it's an awesome opportunity.

GRAGERT: Thank you.

CHAD PODOLAK: Um-hum.

BOSTELMAN: Senator Groene.

GROENE: It's a correction, though. Landowners always did have the ability to get a landowner permit without having to go through a withdrawal, right?

CHAD PODOLAK: I believe that's true. It is for-- I believe that's true, yeah.

GROENE: So they did have one advantage, I mean, where they could hunt early. All right, thank you.

CHAD PODOLAK: Um-hum.

BOSTELMAN: Do you farm your ground or do you rent it?

CHAD PODOLAK: The family farms it, um-hum.

BOSTELMAN: So yourself, not your--

CHAD PODOLAK: No.

BOSTELMAN: --brothers, brother-in-law?

CHAD PODOLAK: Yep.

BOSTELMAN: OK. Are there any other questions? Seeing none, thank you for coming to testify.

CHAD PODOLAK: Thank you.

BOSTELMAN: Next opponent, please. Good afternoon.

GEORGE CUNNINGHAM: Good afternoon. My name is George Cunningham, G-e-o-r-g-e-- excuse me, G-e-o-r-g-e C-u-n-n-i-n-g-h-a-m. I'm here today representing the members of the Nebraska Wildlife Federation. Our mission is to promote Nebraska's wildlife and wild places through outdoor education, fish and wildlife conservation, and public policy.

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Today, the federation stands opposed to LB803 since this bill is a modification of previous years' legislation that we feel sets in motion a process that erodes the North American model of wildlife management in Nebraska. This model of wildlife management is based upon a set of principles that have led to the success of wildlife conservation and management in the United States and Canada for over 100 years. Two of the most important guiding principles include that the wildlife resources are a public trust and democracy of hunting is a standard. Unfortunately, the effect of LB803 is to violate the central tenets as it creates a preferential class of permittees with privileges that usurp fair and equal access to hunting permits and ultimately access to public trust resources. Our position is that the common law provision of the public trust doctrine so central to the excess-- success of North American model of wildlife management is at risk of being pushed aside by legislation such as LB803. This legislation caters to the misconception that landowners own the wildlife in Nebraska. Thus, they are entitled to greater benefit to wildlife resources than the general public. Nothing could be further from the truth. The Nebraska Wildlife Federation strongly supports the common law right that the government holds and trusts wildlife resources for the benefit of all people, not as a prerogative for the benefit of private individuals. If we choose to ignore this reality by adopting further discriminatory legislation such as LB803, we run the very real potential of wildlife in Nebraska becoming the de facto private property of landowners and other designated privileged entities. Thank you.

BOSTELMAN: Thank you, Mr. Cunningham. Are there questions from the committee? Senator Groene.

GEORGE CUNNINGHAM: Yeah.

GROENE: You're pro hunting, though.

GEORGE CUNNINGHAM: Yeah. I've been a hunter since 1984.

GROENE: So do you--

GEORGE CUNNINGHAM: And our organization was founded as part of the process to set up regulations in the 1930s for game management.

GROENE: Got the same view of things Teddy Roosevelt had.

GEORGE CUNNINGHAM: Yes.

GROENE: Likes to hunt, but--

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GEORGE CUNNINGHAM: Yeah.

GROENE: So do you own land?

GEORGE CUNNINGHAM: Personally, yes, I do.

GROENE: So you hunt on your own land?

GEORGE CUNNINGHAM: Um-hum, yeah.

GROENE: I mean, the old days of where when I grew up on a farm and I owned some farm ground where guys would-- we used to call them Omaha hunters, of course, come out and they would shoot things off the road ditch, shoot across your land. That's kind of gone by the wayside, hasn't it? Most of these guys are more professional about it. I guess what my point is a landowner, on opening weekend, if he posts his land or doesn't get permission, he still first got-- usually got first shot and any deer on his property, doesn't he?

GEORGE CUNNINGHAM: Yeah, of course. Yeah, I mean--

GROENE: I mean, odds of a--

GEORGE CUNNINGHAM: --on opening day.

GROENE: Yeah.

GEORGE CUNNINGHAM: Yeah, like everybody else, on opening day, yeah, um-hum--

GROENE: So he--

GEORGE CUNNINGHAM: --whether they're, whether they're at some friend's place or they're on public ground, yeah, um-hum.

GROENE: All right.

GEORGE CUNNINGHAM: Yeah. No, the days of, the days of-- you know, I'm from Omaha so, you know, I've heard this stuff that-- you know, the people from Omaha and Lincoln come out and do everything. My ground is up on Nio-- lower part of the--

GROENE: Fifty years ago, yeah.

GEORGE CUNNINGHAM: My ground is up on the lower, lower part of the Niobrara River, which has a great deal of poaching activity that occurs there. I've witnessed it many times and most of the egregious

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behavior is actually the locals, the locals committing the crime, I should say, so. So yeah, shooting across things or things like that, it's more 4:30 in the morning, all the sudden, the light comes on. Boom. Then you hear a truck and you know what happened, so yeah.

GROENE: All right, thank you.

BOSTELMAN: Seeing no other questions, thank you for your testimony.

GEORGE CUNNINGHAM: All right. Thank you.

BOSTELMAN: Any other opponents on LB803? Seeing none, neutral testifiers on LB803. Good afternoon, Director.

TIMOTHY McCOY: Good afternoon, Chairman Bostelman and members of the committee. My name is Timothy McCoy, T-i-m-o-t-h-y M-c-C-o-y, Director of the Game and Parks Commission located at 2200 North 33rd, Lincoln, Nebraska, and I'm here testifying in a neutral capacity for this bill. I will, I will tell you that, you know, there's two different things with this bill. The first part is the expansion of the qualifying immediate family. There was an expansion of that done a few years previously and I can tell you from our perspective, we were very concerned we would see a huge increase in the use of landowner permits. When we look back at that history, we saw some small increases, but they, but they were not that large. In terms of many of the questions that have been asked, I'm going to try to address those as I go through this. You know, there are-- with the special landowner permits as with our landowner permits, both of those are either-sex tags, the-- you know, the, the landowners and the people who hunt on those landowner tags have the opportunity to hunt either a-- they can kill a buck or they can kill a doe. It's their choice. When I look-- when we look at overall success from 2021-- you may be interested in this. In 2021, we, we had 136,530 deer permits that were sold, five-- about 5,200 deer were harvested, which is about a 38 percent success rate. When we look at the special landowner deer season that's been having much discussion, the success rate was actually 24 percent overall. So it was not-- and part of that, part of that difference is that's a three-day season. Three-day season is pretty short. The-- most of the other seasons, including the regular rifle season, are ten days. Somebody also asked about, you know, the total harvest. When we look overall at our harvest rates in, in deer, about 63 percent. And, you know, in the last year, bucks; 63 percent bucks were harvested across all deer permits and 37 percent were antlerless. And there is some more breakdown I can give you of that. Of those 136,530 permits that we sold, 48 percent allowed the killing of a buck and 52 percent

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were antlerless only. And those antlerless-only permits are ones that we have put out there primarily to help engage our, our hunters in, in managing our deer population. When we look overall at what happened in the first season, the harvest numbers, when you compare them to the 52,000 total deer that were harvested last year, are, are not having at this point, with the first season under our belt, a significant impact. Now, we are obviously going to continue to watch that through the years because that may change through time. It may change with expansion and changes and, and those-- we will continue to analyze that. That's, that's part of our job. When we look at the combined harvest in 2021 of the limited landowner and the special seasonal landowner permits, landowner harvest of deer overall was down 11 percent statewide compared to previous years and that's almost identical to the decline that we saw from all of our hunting seasons in terms of a 12 percent decline in deer harvest last year. And part of that is tied to some lower deer populations in some parts of the state. We've been working to really push antlerless harvest to try and reduce those. So, you know, we're not, we're not seeing that there's a, a, a huge imbalance at this point, but it is something we will continue to watch. And then as you can see in the fiscal note, the other thing that we've learned in the first special landowner deer season, it was recruiting some new hunters and, and that potentially has a, a potential to increase some of our eligibility for, for federal wildlife and sport fish restoration funds because part of our allocation-- the one thing that changes is the number of hunters that we had that bought a permit every year.

BOSTELMAN: Thank you, Director. Are there questions? Senator Gragert.

GRAGERT: Thank you, Chairman Bostelman. I would just be interested in the last year, have you had requests for depredation permits?

TIMOTHY McCOY: We still had a few requests for depredation permits in, in-- on deer last year, but it's down significantly from where it was in previous years.

GRAGERT: Is there a certain area of the state that's more--

TIMOTHY McCOY: There was an area that we had some early concerns this year, kind of in that Middle, Middle Loup-- in the Middle Loup River area. However, later in the season, this summer with the drought, they actually had a pretty big impact from EHD and so they were less, they were less concerned as we got later into the deer season.

GRAGERT: Thank you.

BOSTELMAN: Senator Groene.

GROENE: Thank you, Chairman. Sorry I didn't acknowledge you earlier. Surrounding states-- our deer season, is it one of the earlier or is it right in the-- about the same time as most other states?

TIMOTHY McCOY: It's a variety in terms of--

GROENE: I know Kansas is later.

TIMOTHY McCOY: Kansas is late-- rifles and deer is later. When you look at states, most of their dates they hold their rifle deer season is based on tradition. It's, it's how it was established when they started having seasons and it's built that tradition of hunters.

GROENE: I heard another testifier say we might be too early because of the rut that it's an easier target because the bucks are still very active.

TIMOTHY McCOY: It depends on what your goal is. You know, it's-- there's been some interesting new data that-- or some new studies that have-- out of Wyoming and with other states looking at chronic wasting disease, which is indicating, based on harvest patterns, that, that to help limit the spread of that disease, hunting during the rut when deer are most active may actually help you get more, more harvest of bucks because bucks have a tendency to carry and move that disease around. So there's, there's a variety of things that go into it. And in Nebraska, we've never done it a lot earlier than that, primarily because deer season, when we started it, the goal was to have most of the crops out of the field before you try to rifle deer hunt. There, there are other states that, that start earlier, but they're typically farther south.

GROENE: So the hunt kill was down?

TIMOTHY McCOY: Yeah, overall.

GROENE: And that you, you attribute to the point that that you've had the doe season, had less does, total population is down. Is-- that is something you were looking for.

TIMOTHY McCOY: That-- in some areas, the other thing that we had last year is we had Epizootic, Epizootic Hemorrhagic Disease in especially--

GROENE: What area?

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TIMOTHY McCOY: --in several parts of the state, but especially in north-central Nebraska and some of northeast Nebraska. So we also had some disease impacts during drought on some of those--

GROENE: My area where I own some land on the South Loup, I would always see 50 to 100 herds this time of year, but we used to have green wheat fields too that attract them. Is that area one of the areas that have been impacted? Because I haven't seen them, I haven't seen many deer at all.

TIMOTHY McCOY: I would have, I would have to go back and check to get something that specific, Senator.

GROENE: Thank you. Would it be maybe if we put this bill that says you can have more if you're in an area that is considered-- that needs depredation, use it as a tool there?

TIMOTHY McCOY: Well, it's potentially a tool the way it is now for landowners that are in those areas. Landowner permits have always been-- historically, are not limited. They're over, they're over the counter. They still have to meet those 80 acres per--

GROENE: No, I'm talking about this program where we add eight more people.

TIMOTHY McCOY: Oh, for the early landowner--

GROENE: Yeah.

TIMOTHY McCOY: --deer season? Well, there's, there's, there's the possibility of doing that. Our, our review of, you know, what was, what was said in the hearing and also on the floor, looking at the intent was the intent of this season was to provide landowners an opportunity to hunt that first three days with their families. We heard comments about this from landowners that they really enjoyed it, partially because if they had other hunters coming in, they weren't worried about paying attention to their other hunters. They didn't have people stopping and asking to, to hunt because sometimes that happens a lot on opening weekend. So it's, it's a balancing act and there's, there-- obviously, we also heard from hunters and the land-- from landowners regarding grandchildren and we also heard from hunters, you know, regular hunters that don't have access to private land or have to wait until this-- that, that becomes open that, that they don't like the season, so.

GROENE: Thank you.

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BOSTELMAN: Senator Gragert.

GRAGERT: Thank you, Chairman Bostelman. I was just-- real quickly, do the- did the three-day-- now it's a three-day special hunt for landowners. Did that increase your cost at the Game and Parks--

TIMOTHY McCOY: It--

GRAGERT: --other than-- OK, go ahead.

TIMOTHY McCOY: It, it didn't have a, it didn't have a big increase in cost because, because of the way we man-- we had to issue the permits in our offices. There were more people coming to our permit office locations to buy permits and we had some lines and we're trying to work on that, but we didn't, we didn't take on additional costs in terms of programming or any of those things.

GRAGERT: Thank you.

BOSTELMAN: So we do a early youth pheasant hunt, don't we, the week before?

TIMOTHY McCOY: Yep.

BOSTELMAN: You get-- go out for that weekend and hunt. Now, if you have permission to hunt on land, then you can go on, on that land or if it's public ground you can go hunt. But if you don't, you wouldn't be able to hunt. So we have a youth-- early youth pheasant season or pheasant hunt that we can do before the regular pheasant season starts. My understanding is that there's a number of others-- I think the-- what we hear and I think what's happening in Nebraska has been the discussion over when to have a rifle season pretty much till where, where it's set, between archers and rifle. And that's, that's-- and then when it, when it got moved later, we went through all that. But I know a lot of other states have multiple rifle seasons for deer. So, you know, I guess this isn't doing something that other states don't do. I mean, you get a five-day window if you go to Montana, if you can-- in the month of November-- October or November, wherever there's a five-day window-- that if you're rifle hunting, you can go apply and you go and hunt during those five days. Is that accurate or not?

TIMOTHY McCOY: It, it is and most of those states that have done that were they, were they have sort of those really short, separate rifle seasons have been a lot of the states that have a lot of public land--

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BOSTELMAN: Um-hum.

TIMOTHY McCOY: --especially the mountain states, in order to sort of spread, spread out their pressure a little more.

BOSTELMAN: Sure.

TIMOTHY McCOY: You know, in terms of the youth seasons, yeah, we have a, we have, we have early waterfowl seasons, you know, the weekend ahead. And so, you know, this, this-- you know, the main, the main difference between those and what we're doing here is because this is targeted towards landowners. Although as a state that is 97 percent private land, you know, we're in a, we're in a very different spot than a public-- a state with vast amounts of public land.

BOSTELMAN: OK. Thank you for your testimony, Director. Any others wishing to testify in the neutral capacity? Seeing none, Senator Hughes, you're welcome to close. We did have two proponent letters and one opponent letter to LB803. Senator Hughes.

HUGHES: Thank you, Mr. Chairman and members of the committee. There are a couple of points that I do want to make. Originally, this bill did start out as a depredation issue because the person in my district was having a serious problem. But one of his remedies that he was willing to accept for that damage that the deer were doing to his property was the fact that if he could take his kids hunting, that would offset some of the damage that was being caused by the deer herd. So, you know, as with most bills, this bill has morphed over time to get to the point that it's at today. The landowners feed the deer 365 days a year. That's why they get to hunt early. That's why they get a break on landowner permits. You know, when the public trust wants to pay for feeding the deer all year round, then we can get rid of the landowner permits. There was a lot of discussion about that. Game and Parks has significantly improved their deer management I think because of the efforts of several of us have brought some things, pressure to bear in certain areas and I do applaud them for that. The crack at a trophy buck, the landowners are going to get that crack regardless because it's his land. He's going to hunt it first regardless of when that season is. And to Senator Groene's point, yes, there are still a lot of people who are taking advantage. They're not asking permission. They're shooting from the road. They're shooting across your land. You know, if you're in a tree stand, there are people who are-- have got scopes on you from the road. So this is a way for the landowner, because he's feeding those deer 365 days a year, to have just a little bit of compensation for that. And what

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this bill actually does is allows them to take their kids and grandkids with them. Now is 12 the right number? I don't know. We may be able to cut that back. There's some concern about that, but it still is tied to the amount of land that someone has leased or owned. So with that, I'd be happy to answer any questions.

BOSTELMAN: Thank you, Senator Hughes. Any questions? Senator Gragert.

GRAGERT: I just have a couple that I-- because I wasn't here on opening and-- Senator Hughes, and I just-- you know, you mentioned safety and I'm, I'm all on board with safety and being able to take your kids out there. And you bring up this shooting from the roads and, and not asking to come onto your property. Is-- you can-- do you see that as more of a game warden, a lack of game wardens and would you, would you support a bill to hire more game wardens?

HUGHES: I-- you know, whatever the, the territory that you have to cover, it's a logistics problem because you've got deer season going on, you've got pheasant season going on at the same time, probably dove season. Same thing you have when-- the Lake McConaughy on the big three weekends when you have a huge influx of participants and-- but that's only in one area, whereas hunting seasons, it's statewide. So, you know, that's-- I'm not here to micromanage Game and Parks. If they need more game wardens or wildlife officers, I, I don't have a problem with that at all.

GRAGERT: Do you see the-- and I think I got my numbers straight here. There was 136,530 permits issued with 52,000 of them filled this last season. Do you feel you know how important it is to keep those sports hunters, you know, as a, as a hunting-- this hunting as a harvest tool to keep this population down to 52,000 is important to keep their interest in hunting also?

HUGHES: My focus is the landowner because they're the ones that are paying the bill. I mean, they're not-- they don't have any choice whether they feed the deer or not. You know, the hunter from-- in Nebraska or from Omaha, Lincoln, or out of state, I mean, they're paying for that privilege. So that's their choice. The landowner does not have a choice whether he has to feed the deer on his property or not. They're there because they're going to eat.

GRAGERT: Thanks.

HUGHES: Sure.

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BOSTELMAN: Seeing no other questions, thank you, Senator Hughes. That will close on LB803 and turn it over to Senator Moser.

MOSER: Senator Bostelman.

BOSTELMAN: Good afternoon, Chairman-- Vice Chairman Moser and members of Natural Resources Committee. My name is Bruce Bostelman, spelled B-r-u-c-e B-o-s-t-e-l-m-a-n, and I represent Legislative District 23. I'm here today to introduce LB1045, which strikes language that prevents a high-level employee of a district from running for the board of directors of any district. I bring this bill because I was made aware of some general managers of rural electric associations who had shown interest in running for the board of directors of NPPD, but were prohibited from doing so unless they resigned or took a leave of absence due to the current language. Current language is also too broad. The way the statute reads now, a person who is a high-level employee of Burt County Public Power but lives in the OPPD service area is prohibited from running for the board of directors of OPPD. These two utilities are not connected in any way. Furthermore, ten of the NREA's members are members of and receive their power at wholesale from Tri-State Generation and Transmission Association, which is headquartered in Westminster, Colorado. Two are members of Rushmore Electric Power Cooperative, headquartered in Rapid City, South Dakota. Under current law, a person who resides in Nebraska and is a high-level manager of Chimney Rock Public Power District, who receives its power wholesale from Colorado, is prevented from running for the board of directors of NPPD. We should not prohibit a person from serving the public on the board of directors for NPPD or other boards just because they work for a district that receives its electricity from Colorado. We should be encouraging people to run for these positions. Therefore, I urge the committee to vote LB1045 out of committee and onto General File and I'll take any questions you may have.

MOSER: Questions for Senator Bostelman? Did you research the history of how this came to be in the first place? Was there a problem where there was inbreeding between the districts?

BOSTELMAN: No, there was not a problem. I think it, it came back. If I remember, it was in 2015, 2015. There was a Norris Public Power person who wanted to run and that's what it was about.

MOSER: So would a person be able to run for NPPD board if you were an NPPD employee?

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BOSTELMAN: I think they are prohibited, prohibited. The statute addresses that. Specifically, if you're a high-level manager, no. Others, I would have to look at that, but I think the statute addresses that. This is for someone who's-- in this case, it's not an employee of NPPD.

MOSER: OK. Any other questions? Thank you, sir. Any support? Anybody who wants to speak in favor of this?

DARIN BLOOMQUIST: Good afternoon, Vice Chair Moser--

MOSER: Greetings.

DARIN BLOOMQUIST: --and members of the committee. My name is Darin Bloomquist, D-a-r-i-n B-l-o-o-m-q-u-i-s-t. I am the general manager of Nebraska Electric Generation and Transmission Cooperative, Columbus, Nebraska. NEG&T consists of 19 rural public power districts and one electric membership corporation and was incorporated in 1956 under state statutes and serves the power needs of nearly 150,000 consumers in rural Nebraska. NEG&T administers an all-requirements contract for wholesale power supply and delivery from Nebraska Public Power District exclusively that runs through 2035. This obligation results in approximately \$240 million in revenues annually for NPPD. In 2021, NEG&T sold over 4.5 billion kilowatt hours to its members that NEG is billed from NPPD, making NEG&T NPPD's largest wholesale customer in aggregate. I am here to testify today in support of LB1045. As Section 1 of Section 70-619 currently reads, none of the high-level managers that are electric industry experts with decades of practical Nebraska distribution experience could be elected and serve as a member of the Board of Directors of Nebraska Public Power District. The question is why? This seems arbitrary, discriminatory, and unfair to eliminate certain people that make up NPPD's ratepayers just because of their employment level within a public power district. Also, it is counterintuitive and imposing to rational thinking of wanting the most qualified Nebraska citizen, citizenry elected to the helm of NPPD to maintain and improve upon NPPD's most enviable, diverse power generation mix of nuclear, hydroelectric, coal, natural gas, solar, and wind, which is 65 percent carbon-emitting free and consistently ranks in the top ten for average residential costs. If NPPD were a state, they would be number four. As most of you can appreciate, in public power districts, operations of an electric utility can be an extremely difficult issue to comprehensively understand. Our industry is full of employees that are accountants, engineers, operations managers, and board members that have served the state for decades. It is in this quality that the wholesale managers are uniquely qualified

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and in fact should be encouraged to serve on the board of NPPD. These individuals have vast experience in rate development, reliability, customer interaction, economic development, etcetera. LB1045 improves our public power model in its entirety. The state's largest public power district, NPPD, reports in their annual report from 2020 that hundreds of millions of dollars per year come from wholesale customers. And in fact, the wholesale customers are responsible for nearly two-thirds of all NPPD production revenues. Many hugely important questions concerning integrated resource plans, the relicensing of Nebraska's only functioning nuclear plant, Cooper Nuclear Station, and the fate of Nebraska's largest and most cost-effective coal-generating plant, Gerald Gentleman Station, will need to be answered within a very near term. From a fiduciary perspective, the ratepayers of Nebraska deserve to have the most qualified, the most experienced utility professionals eligible to protect the reliability and affordability that Nebraskans have come to know will be there for many years to come. Thank you for allowing me to testify today. I'd be happy to answer any questions if I could.

MOSER: Any questions for the testifier? Senator Groene.

GROENE: But they can't run for the board of the-- where they're employed, correct?

DARIN BLOOMQUIST: That's correct.

GROENE: It would just be like somebody from Custer Power running--

DARIN BLOOMQUIST: Absolutely, that would be an example that customers-- Custer's general manager would be precluded from taking office as an NPPD board member as the statute reads.

GROENE: But is there--

MOSER: At this time.

GROENE: What?

MOSER: At this time, but--

DARIN BLOOMQUIST: At this--

MOSER: --this would change that.

DARIN BLOOMQUIST: This would change that.

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GROENE: He could run for his own board?

DARIN BLOOMQUIST: No, no, no.

GROENE: Just for NPPD.

DARIN BLOOMQUIST: Yes, sir. Yes, sir. Yes.

GROENE: But it wasn't the worry that a lot of NPD contract-- NPPD contracts with a lot of local districts and supplies power to that local public power district?

DARIN BLOOMQUIST: I'm sorry. I'm not sure I understand.

GROENE: The local public power districts, a lot of them contract with NPPD for their power, right?

DARIN BLOOMQUIST: Yes, sir.

GROENE: So isn't that the problem with the conflict of interest that the person who is sitting on the board and then negotiating a contract with NPPD at the same time for power for his district?

DARIN BLOOMQUIST: Well, that, that's an interesting question. They're-- NPPD sets rates and they are approved by their board of directors, which their board pays those rates because they would be ratepayers of NPPD. So in my mind, there wouldn't be any conflict. And as wholesale customers, each wholesale customer has the same rate ramifications. Every, every-- of all the 77 wholesale customers I believe NPPD have, they're all charged the same rates.

GROENE: There's no special--

DARIN BLOOMQUIST: There is none. Now--

GROENE: --volume-- just-- well, it might be, but everybody has to reach the volume, so.

DARIN BLOOMQUIST: As their utility uses that power in different times of days, that will vary how much they're actually paying on an average. But for a volume metric, kilowatt hours, and demand charges, it's all a flat rate. Every, every customer is the same.

MOSER: OK. Other questions? Thank you very much for your testimony.

DARIN BLOOMQUIST: Thank you.

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MOSER: Anybody else in support?

CHANCE BRISCOE: Thank you.

MOSER: If you're going to testify, please come toward the front and get cued up, ready to go, so we can save a few seconds. Please go ahead.

CHANCE BRISCOE: Good afternoon. My name is Chance Briscoe, C-h-a-n-c-e B-r-i-s-c-o-e, and I reside in Chadron, Nebraska. Today, I'm here to testify on behalf of Nebraska Rural Electric Association, which represents 34 rural public power districts and electric cooperatives throughout the state. I'm also here to testify on my own behalf as a Nebraska resident who's directly impacted by this bill. Thank you to the committee for hearing my testimony today in support of LB1045. In 2015, LB177 was adopted by the Legislature to remove the ability of a high-level employee of a public power district to serve on the board of directors of another public power district. While I reside in Chadron, my place of business is in Hay Springs, Nebraska, where I'm the general manager of Northwest Rural Public Power District. I've held this position for the last eight years and have served electric utility companies for the last 20 years as an office manager, chief financial officer at utilities in South Dakota, Missouri, and Colorado. Under current statute, I'm designated as a high-level manager who is employed at a public power district and thus barred from serving on the board of Nebraska Public Power District. As a resident of Chadron, where I'm a retail customer of NPPD, I have a vested interest to serve on the board of directors of NPPD, just as every other NPPD customer in Chadron is eligible to do. It's my understanding when LB177 passed, it was argued that it would be a conflict of interest for a manager for a rural public power district to sit on the board of directors of its wholesale power supplier. While I disagree with that argument, Northwest Rural PPD where I work does not get its power from NPPD. Northwest is one of the six rural utilities headquartered in Nebraska that purchases wholesale power from Tri-State Generation and Transmission in Colorado. So even if there was a possible conflict of interest, it would not exist for me. While I am not a lawyer and have not consulted with a lawyer to get a legal opinion, I believe 70-619, as currently written, is unduly discriminatory, prohibiting somebody like me, an otherwise eligible candidate, from representation on a publicly elected board of directors. Thus, I support adoption of LB1045, which removes these restrictions. Thank you for your time and I'd be willing to answer any questions.

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MOSER: Questions from senators? Senator Wayne.

WAYNE: So LB7-- LB77 [SIC LB177] was passed 47-0 and looking at the testimony, this-- why weren't these issues raised in 2015?

CHANCE BRISCOE: So I was a relatively new manager at that time and I know it was discussed amongst the NREA group at that, at that point in time, but I'm not exactly sure why those questions weren't raised. I know that, you know, upon hearing it, it was something that, you know, caught my attention that it would prohibit me in the future from running for the board of NPPD. But at that time, I was still, you know, basically getting my feet under the ground and didn't understand all the implications that that would have.

WAYNE: OK.

MOSER: Other questions? Senator Cavanaugh.

J. CAVANAUGH: Thank you, Vice Chairman Moser, and thanks for being here. So your specific issue in your situation is that you don't even--

MOSER: Get closer. I can't hear.

J. CAVANAUGH: I get reprimanded for not being close up to the mike all the time. So you work for a cooperative that is not even serviced by NPPD, but you live in NPPD. So if you were anyone else, you could run for NPPD?

CHANCE BRISCOE: Right. I work for a public power district.

J. CAVANAUGH: Public power district.

CHANCE BRISCOE: Yeah.

J. CAVANAUGH: Would-- I mean, not that this is what we're considering, but would it make a difference if we just said-- exempt it out if you have to actually work for a-- because currently it's high-level manager for--

MOSER: Any industry.

J. CAVANAUGH: --anyone in the industry. If we made it somebody that is in business with the public power, I mean, would that make a difference to you or do you care about that?

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CHANCE BRISCOE: Right, so there's two, two answers to that question. So it currently prohibits any public power district high-level employee. So to change it, as you suggested, would eliminate the conflict that I personally would have. I still would disagree with the argument that it proposes a conflict of interest. I would be-- I would like to be represented by industry experts, whether it's in my part of the state or across the state in another area.

J. CAVANAUGH: So-- OK. Good answer to that question. Thank you.

MOSER: Senator Wayne.

WAYNE: If this was the private market, would you allow somebody to sit on your board of directors that would directly have a, a contract with your service pro-- your services?

CHANCE BRISCOE: So we actually do have that situation with Tri-State, the-- my board member, and all the-- and one of the board members from all of the members of Tri-State, which is a private cooperative, private company, serves on the board of directors of Tri-State.

WAYNE: Well I-- different though. I wasn't thinking of a cooperative. I'm talking about--

MOSER: For profit?

WAYNE: Yeah, but it doesn't matter. I'm not, I'm not going to support this bill. It doesn't matter. OK, thank you.

MOSER: Other questions? Yes, Senator Cavanaugh.

J. CAVANAUGH: Sorry, I'm just trying to think, think through this. I apologize. I was running late. I was in-- presenting a bill on another committee. So we have-- I know this-- certainly, you know, the, the idea that you want specialists and things like that. But we have, you know-- I've talked to somebody about-- in fact the Legislature, we have bankers serving on the Banking Committee and farmers are in the Ag Committee. But to serve in the Legislature, you can work in private industry, but you can't work for the university or another department of the state of Nebraska. And that might be more akin to the fact that-- what Senator Wayne was kind of getting at is this overlapping commercial or public-- working for two public entities and being on the elected board of one, I guess. And this is maybe not a question for you, but it's where I-- that's just where my mind is at, at this moment now. But do you-- I guess the question is do you see the, see the similarity that I'm--

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CHANCE BRISCOE: Yeah, I think I do see the similarity that you're, that you're talking about. I would just relate it back to any board of directors for a public power district. So my customers are farmers, ranchers, residents, etcetera and they serve on my board of directors. When a decision comes to the board of directors, they're there to set their own personal issues aside and do what's best-- in the best interest for the public power district as a whole. So while it may negatively impact a residential customer and they may be a residential customer-- they may pass a, a rule or policy for irrigation customers, for example-- I don't see that there would be a difference between a public power district as a wholesale supplier to NPPD.

J. CAVANAUGH: So you're saying that your wholesale supplier relationship is different than your customer board member relationship?

CHANCE BRISCOE: No, I'm saying that they're the same.

J. CAVANAUGH: OK.

CHANCE BRISCOE: That, that my board members are customers, just as if a manager from a utility who sat on the NPPD board, they would also be customers.

J. CAVANAUGH: I got you. Thank you.

MOSER: Senator Groene.

GROENE: Thank you, Vice Chair. So you don't compete with another power district next to you. You have defined lines as either your customer or theirs.

CHANCE BRISCOE: Correct. Territories are set by the power review board.

GROENE: So you wouldn't-- there's no gain by you being on a board and you're, you're, you're opposite on another adjacent local district-- that you'd gain an advantage.

CHANCE BRISCOE: No, I mean, nothing substantial. There are times when maybe a large company, a large load would come into an area and you might be competing for that company to, you know, put their business in, in your territory.

GROENE: You bid that, you bid that to that company?

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CHANCE BRISCOE: You could create special rates in those types of things. Generally, a rate is pretty much set, but for a super large--

GROENE: Buy your wholesale price coming from NPPD is the same.

CHANCE BRISCOE: Right. And I'm not a member of NPPD, so I don't know this, you know, very well, but my understanding is they have a favored nations clause in their contract that anything passed for one public power district would be applied to all the other wholesale suppliers, customers of that-- of those public power districts.

GROENE: So you're saying somebody like you who knows the industry, knows the terminology would be better than somebody who just got elected because they wanted to get rid of coal?

CHANCE BRISCOE: Well, whether one is better than the other, I don't-- I wouldn't make that judgment, but I don't think somebody like me should be barred with the knowledge of information that I know.

GROENE: Thank you.

CHANCE BRISCOE: Thank you.

MOSER: You still have to get elected?

CHANCE BRISCOE: Yeah, you'd still be on the ballot and, and be elected by the citizenry.

MOSER: Voters could decide whether they think you're an insider or a valuable asset?

CHANCE BRISCOE: Sure.

MOSER: Yeah. Any other questions? Thank you very much.

CHANCE BRISCOE: Thank you.

MOSER: Other supporters? OK, is there opposition to this bill, somebody who opposes it?

JOHN HANSEN: Mr. Vice Chairman, members of the community, good afternoon. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I'm the president of Nebraska Farmers Union and I have a fair amount of history with this issue. But as we kind of look at this issue, a lot of this precedes all of us and I've been at this for 32 years. But there is a, there is a pit that rural electricians have never spit out and that is that when the Legislature decided that when they

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created the Nebraska Public Power District system, that they wanted elected-- they wanted that controlled by citizens, they wanted it elected by folks at large. And the REAs, going all the way back to that original creation, thought that they should own and run the NPPD as an outgrowth because they were one of the primary customers so that NPPD should just be owned and run by them. So a lot of these issues that show up at your shop here go back to that original battle that was fought and lost by those folks who keep coming, trying to claw their way back and see if we can get a redo of a decision that they didn't like. I think that the decision that was made by the Legislature was the right one. I think it's the best, most reasonable way to have the proper kind of oversight and control. And so relative to this issue, there had never been a law that restricted the management from REAs who are running for the NPPD board or OPPD board because that had never been a need for one because most folks thought it was fairly obvious that you can't represent both sides of the buy-and-sell equation at the same time without having a conflict of interest. And so in 2015, in this-- or '14, in the election in the case of one of the NPPD positions, the manager of Norris Public Power District threw his hat in the ring and made it clear that he wasn't going to, if he got elected, resign. He was going to continue to get a paycheck from Norris and still negotiate contracts with NPPD while he sat on the NPPD board. And there was a whole bunch of folks in Gage County and southeast Nebraska who said, well, that's not right. A lot of those folks were my members. And so they made a fairly large stink about it and they-- there was a lot of press about it. And so Senator Harr picked up on that and asked me one day. He said, what's going on with this issue? When I explained it to him, he looked at it and said, well, how can, how can you possibly represent both the buyer and the seller at the same time? And I said, bingo; it's a conflict of interest. And he, and he said, well, somebody ought to do something about that. And I said, well, thank you very much for sponsoring the legislation to clarify this. And so that ended up being the development of the bill that made it clear that you couldn't have your cake and eat it too. You couldn't sit on both sides of the buy-sell equation because it was a conflict of interest. So that was the history and it was, I thought, well understood by the Legislature. They looked at it. They said, yeah, this is a conflict of interest. We probably shouldn't ought to have to have a law like this to clarify it because it's such an obvious one. And yet, as you've heard today, there's a lot of folks who the conflict is not obvious to them. So does the law-- is the law still needed that clarifies that? Yes, it is. It's obviously still needed. And so I think it would be a huge step backwards and-- I think to support this bill. I think the current

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law is appropriate. And to my way of thinking, if there's even a hint of impropriety, just a hint, that you should always err to the side of being clear and having rules that make it certain that the public interest needs to be best served by avoiding all conflicts of interest. And in this case, this is clearly a buyer-seller relationship and however much information you gain sitting on the NPPD board would work all to your advantage while you're negotiating the, the contracts that you would have with NPPD later on, not when you became the buyer. And with that, I would be glad to answer any questions and thank the committee for its time and consideration.

MOSER: Sure. Questions from senators? Let's take Senator Cavanaugh.

J. CAVANAUGH: Thank you, Vice Chairman, and thank you, Mr. Hansen, for being here. Did you hear my question about the university and the Legislature that made it-- am I wrong on that similarity, the relationship there where other departments of the state-- that, that we already have a situation where we don't let people serve in government that oversees parts of the, I guess, the entity, right?

JOHN HANSEN: Right and some of those things were discussed when we were going back. You know, I think it was 2015. That sounds like about the right time when this-- when the current law, the current statute was passed and clarified. And so it was, it, it was the desire to make sure that we had clean lines. So it was-- you know, the, the bill was as simple as you could make it. You know, the-- following the kiss of-- principle keep it simple, stupid so that everybody could be clear and understand it. And so that's-- you know, is the language perfect? I suppose it could be more specific. It could be-- address every single situation. But to my mind, the current language addresses all of the necessary conflicts for sure, which it should.

J. CAVANAUGH: To that kind of point about making some sort of changes, the gentleman I think right before you said he works for an entity that is not covered by NPPD. Do you think there's room for that change that would contemplate that situation?

JOHN HANSEN: Well, I think that that, that is a different situation than the one that was presented that was the driver of the need for the legislation. So yes, that, that particular situation, I don't remember that being discussed.

J. CAVANAUGH: OK, thank you.

MOSER: Senator Groene.

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GROENE: You're familiar with the co-op system?

JOHN HANSEN: Somewhat, yeah.

GROENE: I see-- I used to work in that industry. I see this similar to a Farmland Industries/Cenex/Land O'Lakes. This is not a competitive situation. This is public power, just like it's a co-op system. The managers of co-op would be on the board because they wanted their supply to be reliable and priced right. I see these local-- Custer Power, Dawson Public Power not as a competitor, but as one of the whole. It's called Nebraska Public Power. It doesn't all of a sudden say Dawson Public Power over here. It encompasses that whole area. Why wouldn't you want somebody on it that represents a whole bunch of farmers, a whole bunch of people who have his ear to go back to NPPD and not speak for himself, but speak for a whole bunch of people?

JOHN HANSEN: So one of the, one of the historic problems with, with the, the REAs wanting to be able to-- their, their focus is on telling NPPD how to do its business and where its generation mix should be and a whole bunch of other things that are-- except that, that the problem structurally is that you have two different entities and the REAs, while they want to be able to tell NPPD exactly how to do their business, doesn't incur any liability. They accept no debt or outcomes for responsibilities in terms of how things end up. And so it's sort of, you know, you, you-- to me, going back to the original REA argument over, you know, should we just have the NPPD run by the REA managers? Well, NPPD also serves a whole in terms of just number of people, a lot more people by the number of municipalities that it sells to than the number of people than it sells to the REAs to-- bigger geographic area, but more people because you-- you know, the "munis" are representing cities and so they're buying also from the "munis." They're also buying from the REAs--

GROENE: So--

JOHN HANSEN: --so all of this gets complicated.

GROENE: So a mayor of a city such as Kearney who gets their power from NPPD can run for the NPPD board. So I think Columbus gets its power from NPPD. So does-- not Fremont. I think they have their own plant and North Platte has. So those guys can or a city councilperson can run for-- or the city manager. Let's say the city manager. City manager of Kearney could run for this board, NPPD board. That customer can, but the local NRD cannot.

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JOHN HANSEN: Well, I-- the--

GROENE: Not NRD, the--

JOHN HANSEN: The, the diff-- part of the difference also is the difference between whether you're employed or whether you're elected, so--

GROENE: That's why the city manager is employed.

JOHN HANSEN: --so. City manager--

GROENE: Kearney's city manager--

JOHN HANSEN: A city manager, I think, probably could, yes.

GROENE: They're a customer.

JOHN HANSEN: Yeah.

GROENE: Kearney--

JOHN HANSEN: I think it'd probably be a kind of a conflict of interest, but.

GROENE: I wouldn't see it, but thank you.

MOSER: Yeah, I don't think you can be elected and, and serving a city and then be elected and serve--

GROENE: That's why I straightened--

MOSER: --a power district--

GROENE: --it to just city manager.

JOHN HANSEN: Yep.

MOSER: --at the same time. But an employee of the city, I think, could be elected to a power control, I think. OK. Other questions for the testifier? Thank you very much. Appreciate your--

JOHN HANSEN: You bet. Thank you.

MOSER: --testimony.

JOHN HANSEN: Good luck.

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MOSER: Thank you. We'll sort it out in the end. Other opposition?
Welcome, Senator.

AL DAVIS: Good afternoon, Senator Moser. John presented essentially a lot of the things that I'm going to say. I will just go ahead and read it again and my name is Al Davis, A-l D-a-v-i-s, and by this time, you know that I'm a registered lobbyist for the 3,000 members of the Nebraska Chapter of the Sierra Club and here today in opposition to LB1045. LB1045 strikes language from statutes which were added to prevent conflicts of interest which would invariably develop over time when an employee or a customer is seated on the board of a provider. NPPD and OPPD provide transmission generation capabilities to their customers, the state's REAs, and municipalities, who then sell the product to their retail customers. The board members of NPPD and OPPD are privy to certain privileged information needed for them to serve effectively and with one focus on the interests of the firm on whose board they serve. The information might include the location of new infrastructure, information relative to the pricing of power supply, future plans, developments, or security requirements. Obviously, the wholesale customers of NPPD and OPPD have different needs and different objectives, which may be in conflict with the goals and objectives of the generation and transmission entities. A paid staffer for one REA cannot escape the appearance of bias when he or she is seated on the boards of NPPD or OPPD and making decisions which affect all Nebraskans and not just his employer's district. The bill retains prohibitions imposed on municipal leaders who are also customers of NPPD and OPPD, which leads to speculation that the bill is a special carve-out for the REA employees who want to manage and control the state's major power suppliers. That's simply a bad idea and we urge the committee to indefinitely postpone the bill. That was the question that I had, which you brought up, Senator Moser, about municipalities. And the bill does mention that, but it talks about original board so I was a little vague on that. My original intent when I read that was, well, the municipalities are still exempt and-- but it looks like we're including the REAs in the, in the mix. The other thing I would say is, you know, I've been here before you a couple of other times and I've heard a lot of talk about how the layperson just isn't capable of learning the skills that are required. We have to have somebody who knows the industry. And I'm going to say not a one of have you ever had much experience with politics before you got here, but it didn't take long to figure out kind of how the things worked. And, you know, the objective of a person who runs for the board of NPPD is to learn, work, get educated, and look out for the citizens of Nebraska. So we're opposed to the bill. We think, we think things are

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good the way they are. Obviously, the bill was put in place when I was here and Senator Wayne asked the question. I don't remember any discussion about that which was controversial in any way. I don't remember the bill. I wasn't--

MOSER: Were you serving when this bill was passed?

AL DAVIS: I was.

MOSER: OK. You voted for it?

AL DAVIS: I'm assuming I did.

MOSER: If it was unanimous--

AL DAVIS: It was 47-0, you know?

MOSER: Yeah, well, there was two people that were unaccounted for.

WAYNE: They weren't, they weren't--

MOSER: We'll give you the benefit of the doubt.

WAYNE: They weren't present. They were present not voting. There wasn't no votes.

MOSER: Oh, OK. Questions for the testifier? Yes, Senator Cavanaugh.

J. CAVANAUGH: Thank you, Vice Chairman Moser. Thank you, Mr. Davis, for being here. So I was just relooking at your comments here about kind of the, I guess, competitive advantage that would be derived by serving on NPPD's board by one of, one of the employees. I, I'm trying to-- you've got some listed here: infrastructure information relative to pricing supplies. I mean, that sounds like competition, right? I mean, is that-- you're, you're saying it will give-- put whatever, Norris Public Power in, in a competitive position over Columbus or something like that or--

AL DAVIS: Yes. So you heard Mr. Bloomquist talk about what his job is, that they're, they're the entity that negotiates the-- with NPPD for the price. So obviously, there's a competitive give and take on what the prices of the product should be. So, you know, if a member of his group is serving on the board of NPPD, he's going to be privy to information there that could go back to the G&T and shift the table, the balance of power.

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J. CAVANAUGH: Oh, so it's not a competition between two of the REAs. It would be the REAs and NPPD itself.

AL DAVIS: Right, yes.

J. CAVANAUGH: I-- now I understand what you're saying. And I recall some of these other bills that we've had conversations about that-- and I think that maybe Mr. Hansen talked about this-- the conversation that the, the co-ops and the REAs are interested in having actual representation on the NPPD board was a conversation at some point in the past, is that--

AL DAVIS: Yeah.

J. CAVANAUGH: --true? And I assume that was not contemplated during your time here.

AL DAVIS: Pardon me?

J. CAVANAUGH: That was not part of the conversation during your time here or this--

AL DAVIS: Well, it-- so that bill was-- no, I-- earlier discussion-- that, that bill was put in place in 2015. I don't remember the debate about it or the discussion about it. I wasn't on the Natural Resources Committee. It would be pertinent to go back and look at the notes from that time, I suppose. But I don't remember the, the motivation behind the change.

J. CAVANAUGH: The change that we're talking about?

AL DAVIS: Right.

J. CAVANAUGH: OK. Thank you.

AL DAVIS: I guess what we heard was that it involved activities that were coming out of Gage County that were concerning to citizens in Gage County about their manager. The other thing I would say is those people can serve-- in the bill, it says they can serve if they take a leave of absence from their job, so they're not prohibited from serving.

J. CAVANAUGH: Thank you.

MOSER: Further questions for Senator Davis? Thank you.

AL DAVIS: Thank you.

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MOSER: Anybody else to testify in opposition? Do we have any letters of opposition or support for this? None, OK. I just wanted to get that in the record. Anybody in the neutral capacity want to testify? Senator Bostelman, it looks like you could close if you want.

BOSTELMAN: Thank you, Vice Chair Moser. First of all, this is not asking for a redo of history. It's asking for it to be put the way it was prior to 2015. There was no issues at all with this before 2015 before the law was changed because of someone that actually wanted to run. Surprising. The REAs-- Senator Wayne, the REAs did fight this for several years and they have been looking at-- they've been talking to me about this since I came here. It's not a-- it's not something they haven't been opposed to. The original bill precluded all, every public power employee from serving on any public power district board. And so they're-- obviously what we do here is negotiations so there was negotiations and that was the best deal, if you will, that could be made. I think it's interesting what we hear about conflicts of interests. Obviously, Mr.-- I'm sorry, the--

MOSER: Bloomquist?

BOSTELMAN: --testifier, Chase [SIC]-- he testified earlier. He lives in Chadron, works for, you know, a utility in another state, but he can't run for an NPPD board. Really? You know, just because he has that position, how is that a, how is that a conflict for him? I don't see it. You know, if you do have a con-- if you think it's a conflict, you do like you do in any other business. You, you recuse yourself, right? You step back from that. You don't participate in that discussion. You don't participate in that vote. You're not participating in that. And they would do the same thing. So if the concern is, is the rate, well, they would just step out of that position. They just step away from that. And that's common sense and I think the professionalism of those employees, those high-level employees would know to do that and that would be a part of it. I will say, I think it's also interesting, as I think-- as a-- as the opponents that says conflict of interest, Mr. Williams, current member of the NPPD Board of Directors, owns a solar company that sells power into NPPD. Hmm. Is that a conflict of interest? Also, there was two lobbyists that represented NextEra, who was putting in wind turbines at the time, who actively participated, was the chair of OPPD, voted on transmission lines, voted on things, and are active participants in that. Now was that a conflict of interest? My-- if, if we're going to go with that argument, my argument is there's no different than what our general managers would be. I think our general managers have just as much right as a private citizen to sit on a board as all the-- as

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any of those other individuals would. With that, I thank you for your time, I thank you for consideration and I'll take any other questions you have.

MOSER: Any other questions from committee? Thank you, Senator.

BOSTELMAN: Thank you. All right, thank you. We will open on LB1082. Senator Gragert, you're welcome to open. Thank you.

GRAGERT: Thank you. Chairman Bostelman, members of Natural Resources Committee, I'm Senator Tim Gragert, T-i-m G-r-a-g-e-r-t, representing District 40 in northeast Nebraska and here to-- today to introduce LB1082. LB1082 will require applications for annual hunting and fishing permits to include a question asking applicants if they want to include their name on the donor registry of Nebraska to donate their organs and tissue upon death. The Game and Parks Commission will record affirmative responses of those 16 years of age and older in an electronic database. The Game and Parks Commission shall also distribute a brochure explaining the revised Uniform Anatomical Gift Act with the application-- with applications to those 16 years of age and older that have not previously responded to a donor question. If applications are made online, a link must be provided to an electronic copy of that act. Persons agreeing to donate their organs and tissues can always change their status by visiting the Live On Nebraska online or contacting them by telephone. Information on how to change their status will also be provided by the Game and Parks website. The Game and Parks Commission will electronically transfer data to those persons who-- of those pers-- from those persons who agree to make an anatomical gift to Live On Nebraska, the federally designed organ procurement organization for Nebraska. This data cannot be used for any other reason. The Game and Parks is authorized to adopt rules and regulations to carry out the provisions of this bill. Eight-hundred thousand Nebraskans have registered as organ and tissue donors, pledging to help at the time of their death. However, the need is great, as there is approximately 110,000 Americans waiting for a life-saving transplant at any given time. Currently, potential donors can register through the DMV, can register DMV during their driver's license application process or online through the Live On Nebraska's website. Since there are many more waiting for a transplant than there are organs available, providing an annual registration opportunity makes sense rather than waiting for our five-year driver's license cycle. Live On has been working with the Game and Parks on this initiative for two years and Game and Parks is supportive of the proposal. There should be no fiscal impact as the funding for the implementation would be covered by the Live On Nebraska. Several other

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states, including Missouri, Iowa, and Minnesota, have passed similar legislation and have seen immediate success in growing their donor registry. LB1082 simply expands the means of reaching people in an effort to gain more donors for this life-saving mission. I urge your favorable vote on LB1082. If you have any questions, I can try to answer them. I believe the president and CEO of Live On Nebraska is here today and should be able to answer specific questions on the donation process. Thank you.

BOSTELMAN: Thank you, Senator Gragert. Are there questions from committee members? Seeing none, thank you. Proponents, please. First proponent. Good afternoon.

KYLE HERBER: Good afternoon, Chairman, members of the committee. My name is Kyle Herber, K-y-l-e H-e-r-b-e-r, and I am the president and CEO of Live On Nebraska. Our organization has been facilitating organ and tissue donation in, in our great state for the past 44 years. Honoring the decisions of Nebraskans to give life to others is not only a great responsibility, but also a privilege we take very seriously. Despite all of its challenges in 2021, this was a record-breaking year for donation in Nebraska. More than 680 heroes, as we call them, gave the gift of life in our state, 273 organs were transplanted from these donors, and thousands of people will heal from the gifts of donated tissue. As great as this news is, right now, there are more than 300 Nebraskans and over 100,000 Americans who are waiting for an organ transplant. Some will wait days, some years, some will never get the opportunity to receive a transplant. In the U.S., 20 people die each day because an organ wasn't available for them at that time. At Live On Nebraska, our vision is that no one will wait for an organ transplant. We are committed to maximizing each gift of donation and partnering with other organizations to make more organs available for transplant, but ultimately the ability to provide more organs for transplant relies on more people saying yes to give the gift of life. Thomas Varney, better known as "Moose," was an avid Nebraska hunter and fisher, a member of Pheasants Forever and Ducks Unlimited, and a registered organ and tissue donor. When Moose died tragically at the age of 21, his decision to be a donor saved five lives, gave the gift of sight to two people, and provided a better quality of life for dozens more. Moose's father, Tiff, says donation gave the Varney family their biggest hope, changing the negative of Moose's death to something positive, helping to keep his memory alive. The Varneys have also met Jim, one of the recipients of Moose's kidneys, and have a close relationship with him and his family. As this story emphasizes, donation is not just a gift to the people who receive organs and tissues, it's also a blessing for the families of

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those that donate. Despite a tremendous loss, there is hope. There are new relationships. There is life. That is why we do what we do. That is why we strive to do more. Today, most people who choose to register as donors do so when applying for or renewing their driver's license. We are grateful to the DMV for their partnership in helping us register donors, but this method has its limitations. The current driver's license renewal cycle means the majority of Nebraskans are only presented the opportunity to register as donors once every five years. If given the opportunity to register through hunting and fishing license applications, many people would be given the chance to make that decision on an annual basis. Providing an opportunity to register as a donor through hunting and fishing license applications has been adopted in a handful of other states and has proven very successful. Minnesota was the first to implement this method of registration and has added over 150,000 donors in four years. Hunting and fishing donor registrations now account for 5 percent of the total registrations in West Virginia. Their program only began in 2020. Our neighbor in Iowa adopted Logan's Law in 2019 and have also registered thousands of donors as well. I've been hunting and fishing since I was a child and it's a hobby that I now enjoy with my own kids. Spending a day at the lake or in a blind is a tradition many families pass down. With the passing of LB1082, we can begin a new legacy tradition of passing on the gift of generosity, just as Moose Varney did. Thank you for your time and consideration of this bill. On behalf of Live On Nebraska and all Nebrask-- and all of Nebraska's donation and transplantation community, I ask you to please vote yes to advance this bill.

BOSTELMAN: Thank you, Mr. Herber. Are there questions from committee members? Seeing none, thank you for being here today.

KYLE HERBER: Thank you.

J. CAVANAUGH: Sorry, can I--

BOSTELMAN: Sorry. Senator Cavanaugh.

J. CAVANAUGH: I was too slow.

KYLE HERBER: That's OK.

J. CAVANAUGH: So I saw that-- your number about this 5 percent increase. Do you have-- I think Senator Gragert said 800,000 Nebraskans who have signed up so far.

KYLE HERBER: Yeah, just over 800,000, correct.

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J. CAVANAUGH: Do you have any idea, like, how long we've been doing it through our driver's license here?

KYLE HERBER: Since the late '90s, I believe.

J. CAVANAUGH: So was there, when we did that, a big spike in the sign up and adoption then?

KYLE HERBER: I would assume there was. I wasn't around at that time.

J. CAVANAUGH: I checked my license. I'm signed up on my license.

KYLE HERBER: Thank you.

J. CAVANAUGH: And that just state-- that goes on there unless they change it, right?

KYLE HERBER: That's correct.

J. CAVANAUGH: And that's the same we're talking about here?

KYLE HERBER: That's correct.

J. CAVANAUGH: OK. Thank you.

KYLE HERBER: Thank you.

BOSTELMAN: Any other questions? Senator Wayne.

WAYNE: What happens if one checks and one-- like your license, they-- you check it because maybe when you got it, you wanted to and then--

KYLE HERBER: Yep.

WAYNE: --it's not checked on your fishing license or it's not checked on your license-- but it's not checked on your hunting license. What governs?

KYLE HERBER: So.

WAYNE: How do you know their, their wish?

KYLE HERBER: We would determine which one was documented most recently. And so if you, if you check, it's just to add your name, it's not to remove your name. So if your name is in there, they would actually have to contact us to have their name removed. If they remove themselves from the registry, then we document that date and time and

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that date and time would supersede any other previous registers-- registration that would be in our database.

BOSTELMAN: So my question would be, excuse me-- so I understand the process. If a person is in the hospital and how do you check whether they're a donor or not? Is there a national registry? Is there a state registry? Is-- kind of mentioned a little bit there. Could you explain that to me?

KYLE HERBER: Sure. So the hospitals are required to notify our organization at the time of death or when a person is very close to death. We receive that call into our 24/7 communications center. Our communications center then checks the state donor registry to determine if the patient is in there. There's also a national donor registry, doesn't have near the traction or near the registrations that state registries have and so we check that. We then-- if, if they're in there, we present that to the family and let the family know that their loved one was registered. If they're not in the registry, then the family has the legal authority to authorize donation at that time.

BOSTELMAN: So it's a process within the hospital, I guess, then.

KYLE HERBER: It's while the patient's at the hospital, but the process is involved within our organization.

BOSTELMAN: So-- OK, so the hospital calls your organization.

KYLE HERBER: Correct.

BOSTELMAN: Your organization checks.

KYLE HERBER: Yes, that's correct.

BOSTELMAN: How do you get beyond HIPAA for that?

KYLE HERBER: We're actually exempt from HIPAA--

BOSTELMAN: OK.

KYLE HERBER: --as part of the donation process.

BOSTELMAN: OK.

KYLE HERBER: Yeah.

BOSTELMAN: Didn't know that.

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KYLE HERBER: Yeah.

BOSTELMAN: Thank you. Any other questions? Seeing none, thank you for your testimony.

KYLE HERBER: Thank you.

BOSTELMAN: Next proponent, please.

TIMOTHY McCOY: Good afternoon, Chairman Bostelman and members of the committee. My name is Timothy McCoy, the Director of Game and Parks Commission at 2200 North 33rd Street, Lincoln, Nebraska, and I'm here to offer our supportive testimony on LB1082. When this issue was first brought to us two years ago, we were in the process of starting to look at re-- going to a third-party new permit system for hunting and fishing permits. And so it was not a, it was not a good time. We have a fairly old system that needs rebuilt and modernized. And so we have-- we now have a contract with a new permitting vendor, third-party vendor that, that can do that. This vendor also, when I was reminded of this with a previous conversation a few months ago, our new vendor also has done this in West Virginia. They, they actually are the hunting and fishing permit third-party vendor for that state. So they have the experience running this and believe it can be done rather easily in their system because they already have the module put together. So I think this is a good opportunity to see if we can help, you know, increase our registration through the donor registry. Our intention is that this will be a way for people to be entered into the donor registry. We are not-- because these are annual permits that are paper and printed annually, we're not looking at having the paper permit become the, the, the, the thing that tells somebody whether you're registered or not. And as you heard, obviously when this happens, the registry is checked.

BOSTELMAN: Thank you, Director. Are there questions? So you're in the process of-- in the, in the new set up so this will just be added in so that's why there's no additional cost with that?

TIMOTHY McCOY: There will not be an additional cost with it because the vendor we're using has already built the module to do it and, and indicated there would not be additional programming costs.

BOSTELMAN: OK. Any other questions from committee? Senator Moser.

MOSER: Do you need our approval to put that on your permit?

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TIMOTHY McCOY: In the discussions we've had previously, that's not necessarily seen as something that's needed from that standpoint. We need the approval to be able to enter people into this. There's the possibility that if we decide down the road-- there is in this statute the ability for us to do rules and regulations, which if we wanted to add that to a permit, we could. But it-- I don't know if we want to be in a position where it's potentially conflicting with the driver's license and people are looking at that instead of calling the registry.

MOSER: Thank you.

BOSTELMAN: Have you looked at the-- how other states-- you said other states. Is that clearly-- I know when I want a permit, there's a lot of applying for a permit. There's a lot of information, there's a lot of different pages you got to go to. Would this just be individual-- do you see an individual page and then it would explain exactly what it is so--

TIMOTHY McCOY: How, how I foresee this would be is it would be a question that, that would pop up. Obviously, if they've already, you know, done a hunting and fishing permit in our system and said yes, in a permitting system, it wouldn't ask that question again. So, so that's how I imagine that, that would work because also we would be required electronically to show-- to have the other information available for them to review the pamphlet on, on, on what organ donation entails.

BOSTELMAN: OK. I-- just the elimination of confusion in a sense because there is a lot of areas as far as if you're a landowner to fill in all your legal description of property and there's a lot of, a lot of different blocks there to fill out.

TIMOTHY McCOY: Yeah, it would, it would-- more than likely, how I expect it would work, it would be toward-- at the end of-- it would be, it would be at, at sort of the end of a-- at the end of a process of a transaction--

BOSTELMAN: The checkout, right.

TIMOTHY McCOY: --or, or there's an opportunity that it could ask that question if somebody's new and doing a new profile, that it would ask that question as part of that.

BOSTELMAN: OK, thank you. Any other questions? Seeing none, thank you, Director.

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TIMOTHY McCOY: Thank you.

BOSTELMAN: Any other proponents? Good afternoon.

TIM LEWIS: Good afternoon. I want to thank this committee for allowing me to be here and speak to you today. My name is Tim Lewis from York, Nebraska, T-i-m L-e-w-i-s, and I'm a faculty member in the business department of York College. I'm also the lead professor in the sports and recreation management program, but I am not here today in that capacity. I'm also the youngest son of Darrell [PHONETIC] Lewis of Des Moines, Iowa. And like his father before him, ingrained in his son is a profound love and respect for the great outdoors, hunting and fishing in all forms, in all seasons and in all parts of this great country. But I am not here today as my father's son. I am, however, here today as the father of Tyson and Toby and it's for them that I gratefully appear before you today. And like my father before me, my sons and I are most at home in nature, enjoying its beauty, reaping its bounty, caring for it and utilizing its natural resources that our creator has provided through it, and conserving it for generations to enjoy it as much as we do. And families like mine are pretty typical here in the Cornhusker State. My son, Tyson, my courageous oldest son, when Tyson was eight years old, he developed a curious limp that we thought were growing pains for a tall kid his age. It turned out to be cancer, an osteosarcoma, a bone cancer where the tumor developed and grew right above his left knee. It was aggressive and the tumor was growing fast and a result-- as a result of this cancer, he lost his leg. He ended up wearing a prosthetic the rest of his life and a result-- as a result of the intense chemotherapy used, he lost most of his hearing-- he wore hearing aids-- and 12 years later, like a ticking time bomb, it caused his heart to start to fail. After a year of medical therapy, another year using an LVAD, left ventricle assist device, a miracle of nature happened for Tyson and our family. He received a heart transplant from a donor hero, a hero that said yes to organ donation and yes to the sharing of what I feel is nature's most valuable resource, recyclable human organs and tissues. Tyson's gift gave him three immeasurably important things. First, it gave him life. Science and medicine advances have made it possible to take a beating heart, breathing lungs, or a healthy liver and take it from one person and put it into another. It really is a miracle. I saw it firsthand and it's still something it's hard for me to wrap my mind around, but it saved him. It gave him life. Second, it gave him time: time to be a young man in his 20s, more time to fall in love, more time to make memories spent with loved ones and friends, experiences, travel, and more time to hunt and fish. Have you ever tried getting to a remote fishing hole or the best hunting spots for those elusive coyotes or

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raccoons or deers or walking-- all the walking it takes to flush out pheasants or quail, all while wearing an artificial leg and having heart issues? Well, he did it and he loved it and his gift gave him extra time to do so. That gift gave him time. Last, that gift gave him hope, hope that allowed him to dream of growing old and having sons of his own someday so they could learn to treasure nature. And he and his boys would plan to go camp and fish in all 50 states and he even said I could go too. Wasn't that nice of him? That gift gave him hope. And now the rest of the story. After six years of very good health, Tyson's body started to reject the transplanted heart and it began to fail. Doctors told us that he needed a second transplant to survive. That miracle never came. No heart became available for him and we lost him on September 13, 2018. You see, committee, there are just not enough hearts to go around and there are dozens of people waiting like he did for a miracle. He spent the last two months of his life at the Nebraska Medical Center, waiting patiently until the day near the end he said to me, Dad, this sucks. When I get my new heart, I'm going to do everything possible to get freaking more people on the donor list. Will you help me? And right then and there, I swore I would go anywhere at any time with any audience to get more people on that registry. You see, it's a numbers game and we are not winning. And that's why I'm here today, to keep that promise. Last year at the Hy-Vee food store in Des Moines, Iowa, I went to acquire a one-day fishing license at the customer service counter. And while waiting my turn, my eye caught a small poster in bold capital letters and it said Logan's Law. It described a law passed in Iowa in memory of a 15-year-old boy that loved nature like us and he died in an ATV accident. He donated his liver to save the life of another girl and also four others. This low-- this law now offered people the chance to say yes to organ and tissue donation every time they needed permits or a license to hunt and fish; every time, not just four or five years at the DMV like we do here. I immediately fired off an email to Kara at Live On and I asked if we had in the works for our state a law that was similar to that. And she said, we don't now, but we are working on it. After her response, my thoughts were of hundreds more potential donors initially this would bring. And maybe we could partner with hunter safety programs to educate and inform young people about the gift of donation. And my mind envisioned that over years, thousands and thousands more Nebraskans would be saying yes. And of course, I thought of all the recipients and their families that, through those miracles, could have more life, more time, and more hope. Bottom line, if it helps just one, it's totally worth it. My incredible youngest son, Toby, he's joined the quest with me, but in a bigger and better way. For the last two years, he works with Live On Nebraska as an

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organ and tissue donation coordinator. He speaks directly to families, whether they are registered or currently unregistered, at their darkest moments and he presents them the opportunity for their loved one to become a donor hero. Many times he gets to know those families in a personal way and he tells me this: dad, the people like us that love nature, that love outdoors, hunters and fishermen, when given the right information and the chance to say yes, they almost always do. They are the best of the best. I told them that that doesn't surprise me, son, not one bit. Committee, I thank you for your efforts to introduce and pass LB1082. Make your esteemed colleagues listen and understand its importance, its significance, its potential to help hurting people. Give the great people of our state one more opportunity to say yes. If you need help, you know where to find me. Thank you.

BOSTELMAN: Thank you, Mr. Lewis, and thank you for the-- for Tyson's story and I'm sorry for your loss.

TIM LEWIS: Thank you.

BOSTELMAN: Any questions from committee members? Senator Groene.

GROENE: So I maybe missed it, but did you bring this to Senator Gragert, this bill?

TIM LEWIS: I did not. I coincidentally saw it and at the same time, our folks there-- it was-- it all came about at the same time. We all had the greatest-- the great idea together.

GROENE: But you [INAUDIBLE] and then you contacted--

TIM LEWIS: Correct, immediately to see if we had something similar. It caught my eye and my attention. I read-- it directed me to literature. It directed me to a website that told his story and I said, that's the coolest thing. If I knew that and somebody in our situation was able to learn about that for the first time, I think they would be prompted to act.

GROENE: So it's just coincidence Senator Gragert brought the bill.

TIM LEWIS: Yeah.

GROENE: A good coincidence.

TIM LEWIS: I call it providence, maybe.

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GROENE: Thank you.

TIM LEWIS: Um-hum.

BOSTELMAN: Any other comments or questions from committee members?
Thank you again for coming in today. Appreciate your time.

TIM LEWIS: Thank you.

BOSTELMAN: Next proponent. Good afternoon.

MARIGOLD HELVEY: Good afternoon. My name is Marigold Helvey, M-a-r-i-g-o-l-d H-e-l-v-e-y, and I'm a 15-year-old and a sophomore at Westside High School in Omaha. As part of my Girl Scout Gold Award project, I've been working with Live On Nebraska to bring more awareness about the need for organ and tissue donations. Last year, I worked with my senator, Machaela Cavanaugh, on LB251, which is currently on General File, to lower the age that you can register as an organ and tissue donor. Right now, you have to be 16 in Nebraska, but LB251 would let teenagers register when they get their school or learner's permit at the age 14 or 15, like other states, if their parents agree. I'm not into hunting and I've only been fishing once in my life and I didn't even catch a fish, but I still think it's a great idea to give people a chance to register as a donor when they get a hunting or fishing permit, just like they do for a driver's license. A lot of people like to hunt and fish in Nebraska, so this will help reach even more people. Organ donation is a sad thing to think about and it's not something most teenagers have on their mind, but it can save lives. It's probably not something most people have on their minds when they want to go on a hunting or fishing trip, but it can make a difference. More than 100 people can benefit from a tissue donor and one organ donor can save eight lives. I want to thank you all and I hope you will vote yes on this bill.

BOSTELMAN: Thank you, Ms. Helvey. Are there questions for the committee members? Thank you for coming in. Thank you for the work you do on Live On Nebraska.

MARIGOLD HELVEY: Thank you.

BOSTELMAN: Next proponent, please. Is there anyone that would like to testify in opposition to LB1082? Seeing none, anyone like to testify in the neutral capacity? Seeing none, Senator Gragert, you are welcome to close.

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GRAGERT: Unless there's any questions, I'll waive closing with all the excellent testimony.

BOSTELMAN: Senator Gragert waives closing. That will close our hearing on LB1082. Thank you. Oh, so for the, for the record, we do have two proponents for LB1082. Thank you.