

Transcript Prepared by Clerk of the Legislature Transcribers Office

Natural Resources Committee January 19, 2022

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MOSER: Our meeting of the Natural Resources Committee will now come to order. I'm Senator Mike Moser from Columbus. I represent the 22nd District. I serve as Vice Chair of the committee, and will be running the meeting today. Committee members may come and go during the hearing, as we may have bills in other committees to introduce. 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're planning to testify, please pick up a green sign-in sheet on the table at the back of the room. Fill out the green sign-in sheet before you testify. When it's your turn, give the sign-in sheet to the page or to the committee clerk. If you do not wish to testify today, but would like to record your name as being present, there's a separate white sheet in the tables where you can sign to be an official record-- part of the official record of the hearing. When you come to testify, speak clearly into the microphone, tell us your name and spell your first and last name. You will have five minutes to make your initial remarks to the committee. When the yellow light comes on, you have one minute. When the red light comes on, your time is concluded. Questions from committee members may follow. No display of support or opposition to a bill, vocal or otherwise, is allowed at a public hearing. Our committee members with us today will introduce themselves to my far left.

GRAGERT: Good afternoon. LD40 up in northeast Nebraska, Tim Gragert.

HUGHES: Dan Hughes, District 44, southwest Nebraska.

AGUILAR: Ray Aguilar, District 35, Grand Island.

MOSER: To the right.

J. CAVANAUGH: John Cavanaugh, District 9, midtown Omaha.

MOSER: OK. To my left is committee legal counsel, Cyndi Lamm. And to the far right is our clerk, Katie Bohlmeyer. Our pages today are Malcolm and Joseph. With that, we're ready to begin with the hearing on LB804, Senator Hughes.

HUGHES: Good afternoon, Vice Chairman Moser and members of the Natural Resources Committee. My name is Dan Hughes, D-a-n H-u-g-h-e-s and I represent the 44th Legislative District. I am here today to introduce LB804. LB804 seeks to increase the amount of maximum allowable days. The member of the Nebraska public-- the Nebraska Power Review Board designated to represent Nebraska on the Southwest Power Pool's

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Regional State Committee can engage in activities on behalf of the state of Nebraska. To do so, the maximum per diem compensation established in Nebraska Revised Statutes Section 70-1003 must be increased. The Regional State Committee of the SPP is composed of public utility commissioners from states within the Southwest Power Pool's operating area that have one or more utilities that are members of the SPP. In 2016, the statutory maximum per diem compensation for the Power Review Board member who represents Nebraska on that Regional State Committee was set at \$20,000, which equates to 80 per diem days, \$250 a day. The activities of the SPP and the RSC have steadily increased since 2016. And in 2021, just last year, the member of the Power Review Board representing Nebraska used all available per diems and had to limit their meetings and other activities on behalf of the state of Nebraska. LB804 increases the maximum allowed per diem days from 80 to 140. By increasing the maximum per diem compensation from \$20,000 to \$35,000, the total compensation, compensation allowed for designated member and proxies acting on his or her behalf would likewise be increased by the same amount, or from \$25,000 to \$40,000. After the polar vortex that we all enjoyed last February, there were some issues exposed in the SPP. So I can fully understand that the Power Review Board's representative on this special committee looking at what went wrong, what went right would have included more days. So when they came to me and wanted to make sure that whoever this representative is has the resources to attend all of those meetings to represent Nebraska's interests on the SP-- in the SPP, I said absolutely yes, we need to do that. Plus, you know, it's been five years and we all know that things have gone up in price since then. So I'm appreciative of the gentleman who's coming behind me who has served in that capacity. And I look forward to having him give us a little more in-depth of what has been entailed. But we certainly need to make sure that the people who are representing us in the power industry have the resources available to do it to the maximum effect. And I've also been assured that there is sufficient money within the Power Review Board's budget to cover this additional cost. So with that, I'll be happy to answer any questions.

MOSER: Questions for Senator Hughes? I have-- OK, I have one. The increased cost is paid out of the Power Review Board's budget, and is that budget supplied by the utilities or the members?

HUGHES: That is my understanding, that the power generators, and I don't know if it goes beyond that to the transmission or not, there's somebody behind me can answer that more clearly. But it is industry-generated budget for the Power Review Board to fund their activities.

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MOSER: So you're just in this bill giving them the authorization to increase that amount?

HUGHES: For this, this purpose, yes.

MOSER: OK, any other questions? Thank you very much, Senator.

HUGHES: Thank you.

MOSER: Anybody here like to speak as a proponent?

DENNIS GRENNAN: Thank you, Senator Moser and members of the Natural Resource-- Resources Committee. My name is Dennis Grennan, spelled D-e-n-n-i-s, Grennan is G-r-e-n-n-a-n, I live at 1877 West Calle Colombo in Columbus, Nebraska. And I'm here to testify in support of LB804. A little background, I have served on the Power Review Board the past eight years and was the Nebraska representative to the Southwest Power Pool Regional State Committee the past six years. And as Senator Hughes has described, the RSC is a committee of 11 state commissioners from states in the SPP, and responsible for cost allocation of transmission buildout and resource adequacy, at least the two main areas. The reason for LB804 is, is to increase the annual limit paid to the RSC representative. The role of the RSC has grown in SPP, and thus the role and the activity level of the Nebraska representative to the RSC has also grown. The RSC now has representatives serving on many SPP initiatives and special assignments to be sure the input of state commissioners is included and received early in the development process. Some of the examples of initi-- initiatives I have served on include the Holistic Integrated Tariff Team, abbreviated as HITT, which was a year-and-a-half review of SPP's tariff, resulting in 22 recommendations which are gradually being implemented. I was also a member of the Strategic and Creative Re-engineering of Integrated Planning Team, a yearlong initiative to consolidate and improve transmission planning and, and there are other examples as well. As Senator Hughes also mentioned, the winter storm Uri blackout events in February of '21, which this committee is well aware, has caused a great amount of additional SPP meetings to determine what happened and how to avoid such a situation again. Power Review Board members are compensated on a per diem basis. The current annual payment limit for the RSC members equivalent to 80 days per diem payment. And what I would call normal and ordinary meeting requirements, including monthly PRB meetings, monthly RSC calls and RSC quarterly meetings total about 50 per diem days, and more if leadership roles are assumed, which I think is very important for the Nebraska representative to do. Special assignments such as HITT

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require somewhere between 50 and 70 additional per diem days. I reached the current per diem limit this past year around mid-November, and as a result attended some SPP meetings on my own time, or in some cases, did not attend. I also had to resign from the RSC a few days early so I could attend a special December 27 PRB meeting where the board needed to consider redistricting of Nebraska Public Power Districts. Increasing the annual limit to an equivalent 140 per diem days should allow the RSC representative enough per diem days to cover these additional responsibilities. In closing, it's important the Nebraska RSC representative continue to participate in SPP initiatives and studies to ensure Nebraska ratepayer interests are being served. As the electric industry continues to change and grow, so must SPP continue to plan and examine current policies for its members. Nebraska utility members are highly engaged in SPP's collaboration process, and so must the RSC representative. Increasing the annual compensation, compensation limit for the RSC representative will help ensure that can happen. Thank you.

MOSER: Thank you, Mr. Grennan. Questions from committee members?
Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman Moser, and thank you for being here and serving on the board in the last year when you hit your maximum opportunities. Were you in any kind of leadership role on SPP or any boards or subcommittees?

DENNIS GRENNAN: Yes, Senator. I was still chairman of the Rate Allocation Review Task Force, which is again a process within SPP. Once every three years, they look at the cost-benefits of members as they invest in transmission and then the resulting benefit. So we, we do that [INAUDIBLE] and I have been the chairman of that the last, well, the last four years. So, yeah.

J. CAVANAUGH: And had you hit your per diem wall in any previous years? Had you maxed out your per diem days in previous years, sorry?

DENNIS GRENNAN: In previous years?

J. CAVANAUGH: Yeah.

DENNIS GRENNAN: No, I had not. No, I had not. I was close. And it's kind of a matter of in the previous years, there was a couple of opportunities I declined to serve on task forces because I was already assigned to enough. I said, I can't do it.

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J. CAVANAUGH: So essentially, if we increase the limit, Nebraska would get more representation on this board?

DENNIS GRENNAN: Yes, at least, at least remove that limit. Now I might, I might add it's, it's almost self-limiting because, because you only have so much time, particularly most Power Review Board members have full-time jobs. So but this, this is as it's currently set, is a limit that we need to increase.

J. CAVANAUGH: Thank you.

DENNIS GRENNAN: Yeah.

MOSER: Senator Gragert.

GRAGERT: Thank you. Thank you for your testimony, just quick, so if we take this up to 45-- \$35,000, \$40,000, whatever, if you don't use that, where's that money, unused money can go back to? What do you do with the unused moneys?

DENNIS GRENNAN: Well, I think to Senator Moser's question, the PRB is funded through an assessment of the utilities, power utilities, so that process happens every year. And I-- if we don't spend that money, it just doesn't get spent.

GRAGERT: Just stays there.

DENNIS GRENNAN: Yeah.

GRAGERT: OK, thanks.

DENNIS GRENNAN: Yes. Yes, sir.

MOSER: Senator Groene.

GROENE: Thank you. Power Review Board, how do other states do this? You represent all the utilities in our state, OPPD--

DENNIS GRENNAN: Yes.

GROENE: LES, NPPD?

DENNIS GRENNAN: Yes, sir.

GROENE: The big ones?

DENNIS GRENNAN: Yes, sir. Yeah.

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GROENE: So they don't negotiate themselves about cost on transmission lines, their share and other things like that? You do that for them?

DENNIS GRENNAN: We-- it's a collaborative process and there are many committees around SPP. But the Regional State Committee, as far as cost allocation, and that's the formula for who pays for what and transmission, is decided by the Regional State Committee. And that's--

GROENE: That's you?

DENNIS GRENNAN: That's me, along with 10 other commissioners from other states. Yes.

GROENE: Do the other states have boards like this, because I'm, I'm sure other states have multiple power entities?

DENNIS GRENNAN: Yes.

GROENE: Do they have one rep or do each of the companies themselves represent themselves?

DENNIS GRENNAN: The other states have commissions or very similar to the Power Review Board. In some cases, their responsibility is, is a little bit different than the Power Review Board here in Nebraska. But of those 11 states representative-- represented on a regional state committee, there's one and we sit as that committee of 11.

GROENE: And then they go back home and talk to the utilities, and this is our duty in our state, and then we split it up between them?

DENNIS GRENNAN: Correct. Correct. And we-- and I, as a representative, discuss these issues a lot with our Nebraska utilities. We have a monthly call where we go over the agenda. And if there are major items on there, particularly cost allocation, we'll discuss those before I go. So I, I don't do it--

GROENE: So--

DENNIS GRENNAN: --on my own.

GROENE: Excuse me. But so you-- I'm assuming Arkansas, that's the headquarters. You go to Arkansas quite a bit for meetings?

DENNIS GRENNAN: Well, I did until two years ago.

GROENE: That was my next question. With the, the pandemic, why would you have per diem at all. Aren't you doing a bunch of Zoom calls?

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DENNIS GRENNAN: I-- the last two years, just about every meeting has been Zoom and Webex. Yes.

GROENE: But you claimed your \$250 when you had the Zoom meeting at home?

DENNIS GRENNAN: Yes. Yes. Some of these meetings, like on the HITT, for example, are six-hour meetings and--

GROENE: So you're getting paid for your time, you don't have a hotel room, you don't have meals.

DENNIS GRENNAN: Yeah, there was no expenses to turn in. I just, you know, I did it from home. But the per diem, yes, I turned in.

GROENE: All right, thank you.

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

DENNIS GRENNAN: Thank you.

MOSER: Any other proponents?

SHELLEY SAHLING-ZART: Good afternoon, Vice Chairman Moser, members of the Natural Resources Committee. For the record, my name is Shelley Sahling-Zart, that's Shelley, S-h-e-l-l-e-y, Sahling-Zart is S as in Sam-a-h-l-i-n-g-Z-a-r-t. I am vice president and general counsel of Lincoln Electric System, and today I am here on behalf of the Nebraska Power Association in support of LB804. The Nebraska Power Association represents all of Nebraska's public consumer-owned electric utilities, including municipalities, public power districts, public power and irrigation districts, rural public power districts and rural cooperatives. We thank Senator Hughes for introducing this bill on behalf of the Power Review Board, and we are here to enthusiastically support it. In fact, we'd probably tell you it might be a tad low. We do pay the costs of the Power Review Board, it's set up in 70-1020, if you want to look at the assessment. It is assessed to the industry based on our proportion of total income and it's been that way since the inception. We are organized just a little bit differently. You know, other states have public utility commissions, we have the Power Review Board. And the, the, the representation of the Power Review Board on the Regional State Committee is really essential because we are that all-public-power state. We have a unique perspective. We're uniquely situated in some of those discussions, and it's really important that that perspective is represented at SPP. So to clarify just a little bit, Senator Groene, SPP, as you've probably heard

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repeatedly from us, is a stakeholder-driven, member-driven organization. As such, they have a structure of a lot of different advisory committees and member-driven committees, and then they have the Regional State Committee. So the member committees, there's a lot of committees that we all have utility representatives on and we're providing input. The Regional State Committee is more of that regulatory input to the process, which is a really critical and essential part, but it's-- their input is separate and different from the utilities'. So in terms of costs, they're really, they're really giving input into the policies and procedures, if you will, of SPP that ultimately will go into costs. But they're not negotiating project costs and things like that, if that makes sense. But they are providing direct input to SPP, to the board, to the member committee, whatever, wherever that goes, whatever the issue might be. It's a, it's a pretty extensive process. I can tell you, I know that OPPD, NPPD, LES and MEAN, we all have lots of people working on those committees all the time. It's pretty busy. So and I think they, they addressed the per diem, it is for the time, whether you're on a virtual call or not, it's for the Regional State Committee representatives' time spent on those. And as you might guess, our industry is under a lot of change. There's a lot of things we're having to address. And with the polar vortex last year, there were a lot of meetings regarding that. And from our standpoint as utilities, we think it's imperative that the Power Review Board, as our regulator, is also participating in those discussions on behalf of Nebraska. I would be happy to entertain any questions.

MOSER: Senator Groene.

GROENE: So this per diem is just for time. If they fly down to a meeting or if they drive or if they're staying--

SHELLEY SAHLING-ZART: Yeah, their expenses are reimbursed. But it's outside of--

GROENE: All right, so this is not the typical per diem we're used to here, this is--

SHELLEY SAHLING-ZART: I don't believe so.

GROENE: --a time per diem and then expenses are covered on the side.

SHELLEY SAHLING-ZART: I don't believe so. Tim Texel might be able to jump up here and clean that up for you, but--

GROENE: Policy question.

SHELLEY SAHLING-ZART: Mm-Hmm?

GROENE: So with what happened with the vortex and we've been fossil fuel, thank God we had fossil fuel for backup and, and nuclear. Who would set a ceiling on how much low-cost so-called wind energy, wind power company would have to take. In other words, where the wind is blowing in Oklahoma and the places who overdid on wind force Nebraska to take wind and shut down our-- who would negotiate that there's, there might be a floor put in that or a ceiling that nobody has to take more than 45 percent or 40 percent of wind and shut down their, their facilities?

SHELLEY SAHLING-ZART: That's a complicated question. I think it could come from any number of places. I mean, clearly, this body has got authority to set mandates. We could get the opposite kind of mandate, we might have a mandate to from the federal government to be 100 percent. There are all kinds of things. I would tell you the Nebraska Power Association has historically opposed mandates of any kind. One of the cornerstones of public power is local control, and we think those decisions need to be made at the local level in conjunction with working with citizens in the area on how you want to address those particular--

GROENE: But--

SHELLEY SAHLING-ZART: --generation issues. But the other part is the other complicating factor is we are members of the Southwest Power Pool. And I would tell you over time, I think that a lot of the concerns everyone had over the polar vortex are going to resolve themselves through SPP. Those processes take time.

GROENE: But isn't that a mandate when SPP says you have to take the lowest cost and shut down Gerald Gentlemen and because wind is coming in, and that's a mandate from SPP--

SHELLEY SAHLING-ZART: It's more complicated than that.

GROENE: --to utilities in Nebraska.

SHELLEY SAHLING-ZART: So and, and I'm just going to make a really quick plug here that we have a little workshop that explains the SPP market really well, and we'll help you understand negative pricing really well. And I would love to get this committee committed to everybody coming and doing that. It's a very interactive thing and I think it would help this discussion in particular a lot. So SPP does not tell us what to build at all. We can, we can build 100 percent

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wind, we could come with 100 percent fossil fuels. They don't care. What they care is that we are bringing enough resources to the market to meet our peak load, plus a 12 percent reserve margin. They could really care less what it is, but it has to be accredited capacity under their accreditation rules. And under their accreditation rules, dispatchable generation like coal, natural gas, nuclear get accredited at a higher value because they're dispatchable. You can move the power, you can turn it on, it kind of runs at will and you can move the power. Resources, intermittent resources, nondispatchable resources like solar and wind are more intermittent, so they don't get accredited at as high a level as the others. So that's a long-winded way of saying so SPP is looking at all those resources and they've got to have enough accredited capacity. But if every one of us in the footprint is bringing enough firm accredited capacity to the market to make our peak load plus 12 percent--

GROENE: So--

SHELLEY SAHLING-ZART: --there theoretically should be enough resources there.

GROENE: So to clear it up and make sure I'm-- my belief is wrong or right, where does the mandate come that I always hear that you have to take the lowest cost in first?

SHELLEY SAHLING-ZART: It's the market. So the market, we all bid our resources into the market. We all understand what our-- it's all confidential pricing, but you will bid your resources and based on your cost. It's an energy market. It's not a full all-in cost, it's an energy market. So resources like wind and solar, the energy is zero. So if those resources are running, the market will choose those first because the energy cost is zero. And then you keep building up, and again this workshop, oh my gosh, this workshop would be so great. You keep building in your other resources until you, you've got enough resources to match the load. And SPP is doing that every five minutes, they're looking at that constantly.

GROENE: So what I have heard from the federal government or something, you're forced to take the lowest--

SHELLEY SAHLING-ZART: That's a different one. So what happens when, when you're forced-- it's not really that you're forced, it's that that's what the market will choose. The market is going to choose the lowest-cost resources, whatever they are.

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GROENE: So this imaginary market tells Gerald Gentlemen to shut down?

SHELLEY SAHLING-ZART: No. No, you will get--

GROENE: Or does a human being make that decision?

SHELLEY SAHLING-ZART: You will get told to shut down or-- so again, the market is going to take the lowest cost. And mind you, I said, this is at every five minutes. So if the wind is not blowing now, but in an hour, it is, that wind is going to get into the market. Right? And that will-- maybe Gerald Gentleman was running this hour and maybe the next hour, it's not, because more wind has come into the market, but it's a lower-cost resource.

GROENE: Because management made that decision.

SHELLEY SAHLING-ZART: No, because it's a lower-cost resource and the market is choosing the lowest-cost resources for that period. So if more wind starts coming online, if the wind starts blowing more wind, the market is going to automatically go to those resources. Which means you're going to have to back down other--

GROENE: That's a human decision then to do that.

SHELLEY SAHLING-ZART: We might quibble on exactly the definition, but it's a market structure.

GROENE: A computer program does it.

SHELLEY SAHLING-ZART: No. Now you might get told to back down in other things, like there might be a significant imbalance like we saw with the polar vortex, where SPP has got to bring balance back in and they might have way more load than they have-- or way more resources than they have load. You got to keep that in balance, so they're going to have to get load offline.

GROENE: Thank you.

SHELLEY SAHLING-ZART: Did that help? I feel like I confused it. But again, I have a really great workshop that I would really like to do for you, folks. And Senator Hughes has been through that workshop, and maybe he can vouch for that.

MOSER: He can tell us about it. Any other questions? OK, thank you very much.

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SHELLEY SAHLING-ZART: Thank you.

MOSER: Next proponent.

TIM TEXEL: Senator Moser, members of the committee, my name is Tim Texel, T-i-m, last name T-e-x-e-l. I'm the executive director and general counsel for the Nebraska Power Review Board. I wasn't planning on necessarily coming up today, but I wanted to be available to answer any questions. And Senator Groene, you had some questions about the payments that the SPP makes and the RSC member. I want to address that. The Southwest Power Pool pays for the travel costs for the RSC members, so that's allocated to all the utilities and the transmission collections pay for that. And in our situation, because the Accountability and Disclosure Commission would say that it's a gift to Mr. Grennan if we, if they paid directly, the Power Review Board pays the travel costs if they would fly down to Little Rock. And then we get reimbursed by the Southwest Power Pool. So in essence, they pay for it. Initially, we do, but that way it's not considered a gift to our RSC member and they don't have to report it. But all the travel costs are paid by the Southwest Power Pool, the time costs, the per diem is paid by the Power Review Board out of our personal limits, personal service limits. So that's the-- I just wanted to make sure that was clear and address any questions. So that's all I had, unless there's any others.

MOSER: Senator Groene, do you have any questions or--

GROENE: He cleared it up. They get a per diem for labor--

MOSER: OK.

GROENE: --and then they get their expenses recovered.

MOSER: I just wanted to give you a chance.

GROENE: Thank you, sir.

MOSER: Any other committee members? Thank you very much for clearing that up for us.

TIM TEXEL: Thank you.

MOSER: Any other proponents? Any proponents? OK, are there any opponents? Opponents? Are there any neutral testifiers? OK, it appears that there are none. Senator Hughes, if you'd like to close.

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HUGHES: Thank you, Senator Moser, members of the committee. This is pretty straightforward bill that we're allowing members of the Power Review Board who represent us on the Southwest Power Pool the ability to attend the meetings that are necessary and not cost them out of their own pocket. As Mr. Grennan said, they do have other jobs, they are not full-time employees, so they are giving of their expertise for the state of Nebraska. And we should be compensating them for their time. I'll be happy to try and answer any other questions.

MOSER: Senator Groene.

GROENE: Just a quick one, so it's \$25,000 per individual, it's not a total fund?

HUGHES: No, I think that's total fund.

GROENE: It's total fund.

HUGHES: Yes, I believe so. Yes, that is correct. And we want to, we want to raise that.

MOSER: Well, it's \$25,000 per person for the whole year. Right?

GROENE: [INAUDIBLE] for everybody, right?

HUGHES: It's per, it's per member.

GROENE: Per member, so--

HUGHES: Yes.

MOSER: OK. Other questions? Thank you, Senator Hughes.

HUGHES: Thank you.

MOSER: You get bonus points for brevity.

HUGHES: No, I'll do it from there.

MOSER: OK. Since I'm presenting the next bill, Senator Hughes will conduct the meeting.

HUGHES: Thank you, Vice Chairman Moser. Next item on our agenda is LB809. Welcome to the Natural Resources Committee.

MOSER: Thank you for that warm welcome. Good afternoon. Members of the Natural Resources Committee, my name is Mike Moser, spelled M-i-k-e

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M-o-s-e-r. I represent District 22, which includes Platte and portions of Stanton County. Today I am presenting LB809, which I introduced on behalf of the Department of Environment and Energy. The NDEE administers both the Drinking Water and the Clean Water State Revolving Loan programs, which provide financial assistance to communities across the state developing projects to address their drinking water and wastewater infrastructure needs. LB809 updates the State Revolving Fund to be consistent with federal laws that allow Nebraska flexibility to administer the drinking water facilities and wastewater treatment facilities construction loan funds. Further, with the recent passage of the Infrastructure Investment and Jobs Act, there are additional changes necessary to ensure that new financial assistance is dispersed to communities across the state over the next five years. LB809 proposes the following changes. It allows the Drinking Water State Revolving Fund to buy or refinance debt obligation of a municipality or public water supply system. It increases the allowable amount of grant and loan forgiveness assistance up to 75 percent of the eligible project costs for entities serving 10,000 persons or less, the level typically allowed by other federal infrastructure grant programs. It adds additional authority for grant and forgiveness assistance for community public water systems to carry out lead in service line removal projects. All grant and forgiveness assistance will be provided concurrent with State Revolving Fund loans. The Department of Environment and Energy Director Jim Macy is also here today and will follow me with testimony to discuss specifics of the bill. I ask your support of LB809 and would be happy to answer questions that you might have.

HUGHES: Thank you, Senator Moser. Are there questions from the committee? Seeing none, will you stay for closing?

MOSER: Yes.

HUGHES: Very good.

MOSER: I'm stuck here all afternoon.

HUGHES: OK, so we will ask for proponents to LB809. Welcome, Director Macy.

JIM MACY: Thank you, Senator Hughes. Good afternoon. Good afternoon, senators, members of the Natural Resources Committee. My name is Jim Macy, spelled J-i-m M-a-c-y, I'm the Director of the Nebraska Department of Environment and Energy. I'm here today to testify in support of LB809. Before we begin, I want to thank Senator Moser for

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his support and for introducing LB809 on behalf of the department. The Department of Environment and Energy administers the Clean Water and Drinking Water State Revolving Loan programs. They're commonly referred to as the SRF programs. These programs provide below-market-rate interest loans, grants and loan forgiveness to eligible Nebraska communities, which help develop projects to address current and future drinking water and wastewater infrastructure needs. LB809 updates the Drinking Water State Revolving Fund statute to be consistent with federal regulation that allow states to refinance existing drinking water loans. The change proposed matches the existing Clean Water State Revolving Fund Statute language and will allow the program to provide additional financial assistance to those communities determined to be in greatest need of that assistance. To date, 37 Clean Water State Revolving Fund loans have been refinanced down to an effective rate of 1 percent. LB809 clarifies that grants and forgiveness assistance can be provided from each SRF program and increases the allowable percentages for those types of assistance up to 75 percent. This is an increase from 50 percent. With the recent passage of the Infrastructure Investment and Jobs Act, the level of additional subsidization that the programs must provide, whether it be in the form of grants or forgiveness assistance concurrent with a loan, was significantly increased. The increase up to 75 percent cap is consistent with several other federal infrastructure programs. Seventy-five percent subsidization level will only be for communities most in need, with less grant and forgiveness assistance for those who have a greater ability to repay. My final point is a separate grant and forgiveness assistance section is now needed for lead service line replacement projects. The infrastructure law requires that over 30 percent of the federal funding in the SRFs will receive in the next five years and go toward the removal of drinking water service lines containing lead from public water systems. Large systems with populations greater than 10,000 must be eligible for this new lead service line assistance. The need for this change is simple. Through an ongoing national peer-reviewed study, over 33,000 lead service lines have been identified in Nebraska, the majority of which are in larger cities. This standalone section is necessary to meet new federal requirements. In closing, these are simple and important changes that will help Nebraskans across the state have access to clean and safe drinking water. This concludes my testimony. I thank you for your consideration and would be happy to answer any questions you have.

HUGHES: Thank you, Director Macy. Are there questions from the committee? Senator Groene.

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GROENE: Thank you, Vice Vice Chairman or whatever. But we feel that this is all because there's more money coming into the state from the federal government.

JIM MACY: Yes.

GROENE: Do we get a lump sum grant from the federal government or do you apply to the federal government on a per-application basis?

JIM MACY: No, it's more of a lump sum. We get capitalization annually from EPA on both sides of State Drinking Water and Clean Water funds.

GROENE: So didn't you get all the applications in and prorate, so prorate how much each one gets or do you--

JIM MACY: So each year we develop a guidebook, a plan. It's called our intended use plan. It's published, it's reviewed by our Environmental Quality Council. There's a prioritization of projects that meet readiness to proceed in, in this plan. And then there's also a listing of projects that just are interested in a state drinking water or wastewater loan. So the prioritization is through a matrix. It's competitively scored to be ready to proceed. I'm overanswering your question, maybe, but--

GROENE: I understand.

JIM MACY: --you have to have an engineering plan, you have to have a bond and you have to have local ordinances.

GROENE: That was my next question. Your projects are bonded?

JIM MACY: Yeah.

GROENE: So then how do you refinance them if they're dealing with a bond company?

JIM MACY: Well, we, we work all of our investment money through the NIFA.

GROENE: But you're not refinancing their bonds.

JIM MACY: No, the city leverages a bond so that they have an obligation for incurring debt into future years.

GROENE: Then what's the, what-- do you got a dollar amount on what we're going to get from the federal government on this new ARPA plan?

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JIM MACY: Well, it depends on which side of money you're talking about. So yes, I do have some figures in front of me. For fiscal year '22, we will get \$18 million in the clean water, that's the sewer programs, and up to \$68 million in the drinking water programs. And that will be on top of allocations that we would normally get from our, our annual infrastructure upgrades.

GROENE: Just in perspective, what, what were you normally getting versus the-- these times we're living in?

JIM MACY: In the last three or four years, we've gotten more in drinking water than wastewater, but typically about 8.5 on the drinking water side and about 6.8 on the clean water side.

GROENE: So we're--

JIM MACY: Significant.

GROENE: We're wading in money, aren't we? Thank you.

HUGHES: Additional questions for Director Macy? Senator Cavanaugh.

J. CAVANAUGH: Thank you, Vice Vice Chairman Hughes. Thank you, Director Macy, for being here.

JIM MACY: You bet.

J. CAVANAUGH: So the, the section we're talking about, the standalone section, I think, is paragraph 10. I don't the [INAUDIBLE] section were it's saying the power to enter into agreements, it doesn't have a 10,000 person limit, right? The power to enter into agreements for grant loan forgiveness for lead pipe service, right? So that can go to any community in the state of Nebraska.

JIM MACY: So for the lead service lines, we want to open that up to everybody.

J. CAVANAUGH: And is there-- and you said that there's a specific amount, whatever you want to call it, a high, a higher density of lead service lines in bigger cities. So there's not a similar problem faced by larger cities than the other 10,000-person limit is preventing the department from helping?

JIM MACY: I--

J. CAVANAUGH: Did I ask that wrong?

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JIM MACY: I don't, I don't know. Let me, let me give you an answer and see if I hit your mark. So the preponderance of lead service lines are in larger communities.

J. CAVANAUGH: But we-- I'm clearly from a larger city, we still have water quality issues, water treatment issues in the city of Omaha. That doesn't-- but we still can't access the original grant funds here, right? The grant--

JIM MACY: On the grant side, you are--

J. CAVANAUGH: [INAUDIBLE].

JIM MACY: --the larger communities are limited, yes.

J. CAVANAUGH: Is there a reason why we wouldn't want to also expand--

JIM MACY: Nebraska is a big state. We have a lot of problems throughout the state. Small communities that don't have an ability to repay these, these large investments for drinking water and clean water have a harder ability to, to pay those back. And those are where we have a lot of disadvantaged communities, too. So it makes sense to allow some grants for those communities.

J. CAVANAUGH: Thank you for that. That answers my question. And there-- I just had a general question. In terms of adding the grant provision, is that just sort of a-- Senator Groene kind of was hitting on these kind of finance questions that maybe are above my pay grade, but is that just sort of a expediting the process, front-end loan forgiveness? Or why are we going, going to a grant-- adding a grant process on top of loan forgiveness?

JIM MACY: Is, is the question why a grant and why loan forgiveness are both written into the statute?

J. CAVANAUGH: Well, loan forgiveness is already there, we're adding grants. So I guess I'm asking, why are we adding grants? Is there--

JIM MACY: Because this matches the federal language. The federal language speaks to grants. And a long time ago when, when these programs were established in Nebraska, we called it loan forgiveness. So to align with the federal programs, we want to change that language.

J. CAVANAUGH: Gotcha. I just had one other question about, so it's the 75 percent that-- is that all federal money or is there going to be

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state matching funds in that? Or how is-- where is all that going to come from?

JIM MACY: No. So the capitalization comes from the Infrastructure Investment Act.

J. CAVANAUGH: So all 75 percent of it, we don't have to put any money in for that?

JIM MACY: There's a, there's a state-- there's a match from-- so the state provides a match for, for money, typically, that we do have a match, I believe, on that. I can get back with you on what that is.

J. CAVANAUGH: OK.

JIM MACY: --specifically.

J. CAVANAUGH: Thank you.

HUGHES: Additional questions? Senator Gragert.

GRAGERT: Thank you, Chairman. [INAUDIBLE] the-- thank you for your testimony. I'm going to get real specific with you on a reverse osmosis plan. Now would, would this grant apply to a community that wanted to replace the filters in an existing reverse osmosis for drinking water?

JIM MACY: I believe operation and maintenance issues are the responsibility of the community or plant or facility. The community or the municipality that own that operating plant wanted to expand that, maybe replace that system because of infrastructure failure or something like that, that might be considered. Those are really engineering-specific questions and kind of relates back to what the problem might be. But typically, operations and maintenance issues are not included in, in these types of loans.

GRAGERT: OK. One other question. LB809 adds authority to buy or refinance the debt obligations of any municipality for the public water supply system if the debt was incurred for the system or construction of the system began after July 1, 1993. Where does that date come from?

JIM MACY: OK, so in '88, 1988, the clean water programs were established. And then 10 years later, in 1998, the drinking water programs were established. When they established those programs in, in '98 for sure, I know this, that allowed for five years proceeding,

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going back to 1993, the ability to buy or refinance those systems. So drinking water law established in 1998 allowed municipalities to maybe incorporate or consolidate or buy a system back into 1993 and refinance some of those loans.

GRAGERT: OK, thank you.

HUGHES: Additional questions? I guess I've got a couple. So the-- to Senator Cavanaugh's point, the larger cities over 10,000 can't qualify for some of the lead pipe abatement. But did most of those cities get ARPA money that they could use for that?

JIM MACY: Yeah. So the carveout for the over 10,000 is, is for specifically the lead pipe--

HUGHES: OK, right.

JIM MACY: --abatement program, but not other programs. ARPA money is available to most all the communities, even some of the counties. And that is something that the counties or the communities could check off and, and use for infrastructure improvements. And then this is a separate fund--

HUGHES: OK.

JIM MACY: --from that.

HUGHES: So in the past, before this additional federal money has been made available, have you had more requests than you've had funding for, or have you had funds that you've carried over to next year, following years?

JIM MACY: We've had an ask for more funds than what we have in the bank. Communities over the years have ebbed and flowed on, probably wanting to treat more drinking or clean water system improvements and address clean water issues more so than drinking water system improvements. And I don't know why that is, but it's a statistic that's nationwide, a problem that this might help solve with more competitive grants and loan forgiveness.

HUGHES: OK, very good. Any additional questions? Senator Groene.

GROENE: Thank you. If I remember right, reading the ARPA funding that we just, the Governor just announced \$1 billion, in there it mentioned sewer and water, too. So is there three or four pools of money here we're dealing with? That the cities' got their own money, now the ARPA

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money is available for these same type of projects. I remember reading about lead pipes in there, too. And this money was ARPA money through a different source of the, of the act?

JIM MACY: This is a different act. This is a different money source. It's the Infrastructure Investment and Jobs Act money.

GROENE: This is the billion five that passed, trillion five that passed here, but it's in with the highways and everything else infrastructure.

JIM MACY: Yes.

GROENE: And a portion of that was given out across the states.

JIM MACY: Yes.

GROENE: Thank you.

HUGHES: OK. See no more questions, thank you, Director Macy, for coming in today.

JIM MACY: Thank you, Committee

HUGHES: Next proponent to LB809. Welcome.

ELIZABETH ELLIOTT: Good afternoon. Good afternoon, Senator Hughes and members of the Natural Resources Committee. My name is Elizabeth Elliott. I am-- let me back up. My name is Elizabeth Elliott, E-l-i-z-a-b-e-t-h E-l-l-i-o-t-t. I'm the director of Lincoln Transportation and Utilities Department, and I'm here today to testify in support of LB809. First, I want to thank Senator Moser for introducing the legislation and for all of his work in supporting clean water for our state. LB809 provides funding to municipalities to remove lead lines in our communities. Lead service lines impact every community across the state from large to small. In nearly every Nebraska community, the homeowner is solely responsible for maintaining the service line that runs from the water main to their home. Although LB809 moves the city of Lincoln's clean water goals forward, the true beneficiaries of LB809 are the people of this community and the state. Lead service lines pose significant risks to our-- to the health of our residents, especially the most vulnerable populations. Elevated levels of lead and copper can cause serious health problems, especially for infants, young children and pregnant women. Lead and copper in drinking water comes primarily from materials and components associated with service lines and home

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plumbing. Based on our records, we know that our community here has 5,600 homes with lead service lines or lines that contain lead connectors. In addition to those 5,600 lines, there are an additional 3,200 homes with galvanized lines that are or were near lead lines. These are also required by the EPA to be replaced. In addition to those 8,800 lines that we know about, there are another 10,452 homes that the service lines we do not know the material that was used in those lines or components. However, given the age of those homes, of the 10,452 homes, we believe that most, if not all of them will contain service lines or lead connectors. Based on our current construction and material costs, we estimate an average replacement cost of about \$6,000 per service line. An unexpected bill of \$6,000 to a homeowner could be a devastating setback. Municipalities across the state are not in a financial position to help offset these costs for homeowners. For the city of Lincoln alone, the cost of replacing just the 8,800 service lines that we know about could cost nearly \$53 million. If we include the 10,452 lines that we suspect may contain lead lines or components, that would more than double that cost. LB809 creates an opportunity for municipalities to help our residents. By providing municipalities grants or loan forgiveness for up to 75 percent of eligible lead line replacement project costs, municipalities will have additional resources to help replace the service lines for many of our residents. Although this bill doesn't cover all costs and does not guarantee 75 percent forgiveness, it will be a tremendous help for Nebraska communities. I'd like to thank you again for the opportunity to testify here today, and I would be open to any questions you may have.

HUGHES: Thank you, Ms. Elliott, for coming before the committee today. Are there questions? Seeing none, good job.

ELIZABETH ELLIOTT: Thank you.

HUGHES: Next proponent? Welcome.

LASH CHAFFIN: Thank you. Good afternoon, Senator Hughes, Natural Resources Committee. My name is Lash, L-a-s-h, Chaffin, C-h-a-f-f-i-n, I represent the League of Nebraska municipalities. And I sit here today and I'd like to offer my very enthusiastic support for LB809. I'd like to thank Senator Moser. I'd like to thank the department for working with Senator Moser to bring this forward. This is becoming a critical issue very, very quickly, and I think it's-- we need to start dealing with it in as fast a way as we can, as quick as we can. And this is a-- this bill is a good start in bringing a lot of a, lot of effort to, to the lead line replacement issue. And, and I think I

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think Senator [SIC] Macy perhaps sold the department a little bit short on how sophisticated their grant loan program has become in the last 15 years. They're the-- ND-- NDEE, I always want to say NDEQ, but and former HHS, their division, they-- they work very closely when, say, a Eustis or Stapleton or a Vertigre comes forward and says: We need this, we need money for infrastructure. We're not keeping up with the federal mandates. What they do is instead of just saying: Well, here's our scoring system, do your best. They sit down with with USDA, Department of Economic Development, perhaps a couple other entities I'm not even sure of, and then they sort of try to fashion a loan grant program specific to a utility. And sometimes that includes grants, and every program has got a slightly different criteria. And so they try to work with the city or the village to try to develop a program that works for that village. And then they go back to the engineer and say: Well, if you tweak it this way, we can work with, with USDA to do this and that. It's become a very, very sophisticated program. And it's something that, that's, that's important to municipalities across the state. And this lead line issue is going to become a a major, major process and, and I think anything we can do to move this forward would be most helpful. And, you know, and if it doesn't slow the bill down at all and, you know, and the department is interested and the committee is interested in any expansion of the bill, would be welcomed by the league and we would be more than happy to sit and work on specifics of that as much time as it took. But, but again, I would urge you to move this forward as quickly, as quickly as you can within the process. Thank you. I would certainly entertain any questions.

HUGHES: Thank you, Mr. Chaffin. Are there any questions from the committee members? Seeing none, thank you for your testimony.

LASH CHAFFIN: Thank you.

HUGHES: Next proponent. Welcome.

ANNETTE SUDBECK: Thank you. Thank you to Senator Hughes and members of the Natural Resources Committee today. My name is Annette Sudbeck, A-n-n-e-t-t-e S-u-d-b-e-c-k, and I'm the general manager of the Lewis and Clark Natural Resources District, which encompasses the eastern half of Knox County and the majority of Cedar and Dixon Counties in northeast Nebraska. The largest communities in the district are Creighton, Crofton, Hartington and Ponca. Thank you for the opportunity to provide testimony on behalf of the Lewis and Clark NRD and the Nebraska Association of Resources Districts in support of LB809. Of particular interest to the district is the portion of the

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bill pertaining to changing the available amount of grant and loan forgiveness for eligible projects from that 50 percent to up to 75 percent for water systems of 10,000 people or less. All of the communities located in the Lewis and Clark NRD have populations fewer than 10,000 residents, and their drinking water systems may only serve the individual community or their communities, in some cases, may purchase water or sell drinking water to another community. And several communities are served by the Cedar Knox Rural Water Project, and the water project serves 902 rural residents, residences, four communities and several sanitary improvement districts in northern Cedar and Knox Counties. And that project is overseen by the Lewis and Clark NRD. LB809, as proposed, will level the financial playing field for the communities of less than 10,000 residents when faced with the need to make modifications to their drinking water systems. Small communities are required to meet drinking water regulations just as large communities. And when those smaller communities are faced with expensive improvements or repairs to existing systems, those are expenses that are shared among the smaller population, which can significantly increase water rates among the smaller userbase in comparison to larger communities. For example, a \$1 million system repair or upgrade with 50 percent loan forgiveness in a community of 200 households would cost each home or household \$2,500 over the course of the repayment period. If that were a community of 2,000 households, it would only be \$25-- or excuse me, in two-- for 2,000 households, it would be \$250 over the lifetime of that repayment period and as little as \$25 if there-- if it was 20,000 households. Increasing the percentage of available grant or forgiveness from 50 to 75 percent will significantly improve the repayment rate for the remaining loan portion for communities under 10,000. In the case above, it would decrease the cost for the community of 200 households to \$1,250 over that repayment period and \$100-- excuse me, \$125 for the community of 2,000 households, while the repayment rate would remain the same for the community of 20,000 households. State funding is key for many communities and rural water projects who face system upgrades to maintain drinking water rates that will better allow loans to be repaid in a timely fashion and lessen the impact to individuals of the affected communities. LB809 will positively impact the funding capability of communities of less than 10,000 by allowing increased grant loan forgiveness. And the changes proposed in LB809 are important to communities and rural water projects of the district and the communities and rural water, water projects of the state for providing sustainable funding levels. The Lewis and Clark NRD and the Nebraska Association of Resources Districts asks the Natural Resources Committee to consider advancing

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this bill to the benefit of Nebraska communities and residents. Thank you for your time and for your service to Nebraska.

HUGHES: Thank you, Ms. Sudbeck. Are there questions?

GROENE: I have one.

HUGHES: Senator Groene.

GROENE: I'm looking at the Governor's-- his recommendation for ARPA. Drinking water projects. Of the appropriated amounts, \$10 million would be utilized for replacing lead service lines within the communities. Do you know how this money plays in with the money that the, from the infrastructure bill?

ANNETTE SUDBECK: I do not know how that money plays, and that's beyond my-- where I'm at in that role, right?

GROENE: I think somewhere in here, you guys are specifically mentioned.

ANNETTE SUDBECK: Right. We have worked with Senator Gragert to request funding through ARPA and the Governor's Office.

GROENE: So you're, you're already going to-- if everything goes through, you're going to get a good chunk of money for your project?

ANNETTE SUDBECK: Hopefully, yes. Hopefully, yes. We are in the process of replacing some critical infrastructure.

GROENE: Are you familiar, just out of curiosity, not-- so lead can be, from them old pipes can be detected in the drinking water?

ANNETTE SUDBECK: Yes, it can be detected, right. Our system itself with the Cedar Knox Rural Water Project, lead is not one of the primary concerns.

GROENE: Nitrates.

ANNETTE SUDBECK: Well, it's actually sedimentation of the lake is part of the major problem, since we have an intake in the Lewis and Clark Lake. Most of our pipes are not lead in the Cedar Knox Rural Water Project.

GROENE: I was just curious because before it was always lead paint and child had to eat, to actually eat the paint. And I didn't know how it wore on a pipe. Thanks.

ANNETTE SUDBECK: Yep. Thank you.

HUGHES: Additional questions? Seeing none, thank you for coming down today.

ANNETTE SUDBECK: Thank you.

HUGHES: Appreciate it. Additional proponents to LB809? Welcome.

RICK KUBAT: Senator Hughes and members of the Natural Resources Committee, my name is Rick Kubat, R-i-c-k K-u-b-a-t, here on behalf of the Metropolitan Utilities District in support of LB809. We've had the opportunity to have discussions with Senator Moser and NDE. This is an extremely important bill to solve the riddle that is lead service line replacement. I'm going to jump in and start to try and answer some questions. Senator Groene, he talked about the Governor's ARPA proposal, where within there there's \$10 million of state funds. That's through the ARPA bucket of money for lead service line replacement. I look at it is there's really two different buckets of money and the Department of Treasury is encouraging states to use both buckets of money because of the sheer size, scope and magnitude of getting lead service lines replaced. The ARPA money is easier in this sense. The, the state could allocate ARPA dollars and there's really no red tape. With the SRF fund, you've got to borrow a portion, as Director Macy alluded to. And then you have Davis-Bacon and Buy American requirements. The \$10 million is a nice start. I know Lincoln spoke to the financial aspect. Just so that the committee is aware, the Metropolitan Utilities District estimates that we have 17,000 lead service lines in our jurisdiction. At an estimated cost of \$7,000 per replacement, we're talking about \$119 million of homeowner liability, and that's what makes this issue so difficult is lead service lines almost exclusively exist in older parts of town because they were installed in 1938. There's not a problem with the water leaving the main. It's when it leaves the main, goes into the homeowner service lines. You can have a lead leaching into the water. It causes all sorts of health effects, and that's why the federal government is, is strongly encouraging us to use both pots of money to get this, to get this addressed. It being under the homeowner's ownership makes this a very difficult subject matter to deal with in terms of once the utilities start paying to replace a portion of lead service lines, from a public policy perspective, it's going to be difficult for us to tell, OK, these homeowners, we're going to replace yours for free. We're out of money. You people at the end of the line, even though you're living in a \$50, \$60, \$70000 house, we need \$8,000 to get rid of your, your individually-owned lead service line. So it's a slippery

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slope that once we start funding it, we really need to look at it in the long term issue of paying to replace these over time. It's not the intent of, of MUD to come in and decimate the SRF fund. To the contrary, we believe that NDE, you know, will look at our state to help small communities, large communities, middle-sized communities to get rid of the lead service lines. And in that being said, just the sheer number of them that we have out there in the Omaha metro area. We will piecemeal be requesting money from NDE because, quite simply, like most large communities, we don't have the labor and the workforce or the materials to attack this all at once. It really needs to be a program that's stretched out over time. And then the last question I want to touch upon, it's Senator Hughes, you talked about some communities receiving ARPS moneys, and you know that cities, counties and tribal governments received ARPA money. One of the unfortunate aspects of the MUD is because we're a standalone political subdivision, we're not in receipt of any ARPA funds for lead service lines. A lot of communities, the city owns the public water supply system. They received ARPA funds and if they chose to, they could allocated for lead service line replacement. In terms of MUD, we've got to go and ask the city of Omaha, Douglas County and the state. And at least thus far, we haven't been able to get started on, on what I would say a substantive program for lead service line replacements.

HUGHES: OK. Thank you, Mr. Kubat. Senator Groene.

GROENE: So you're saying the lump sum money that Douglas County got and city of Omaha, they haven't shared any of it with you?

RICK KUBAT: That's, that's correct, at least thus far. And we did put in a request to both Douglas County, the city of Omaha and the state, and we've informed all three parties that we're a little bit concerned that everybody's going to say, no, just go ask the other person. All three entities are familiar with our request, but at this point in time, unfortunately, we haven't received funding by any of the above.

GROENE: Just clarification. I knew cities could assess if a street was replaced the sidewalk in front of a property. With you guys, you also, if you replace a service line to the house, you can assess the homeowner for that?

RICK KUBAT: We--

GROENE: Or is

RICK KUBAT: Not that I'm aware of, Senator Groene.

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GROENE: You made it sound like the guys on the end of the line were going to be assessed that.

RICK KUBAT: My, my point with that was at least in the Omaha metro area, we've got a collective \$120 million of liability. What makes this whole issue a can of worms is some communities might say, hey, private homeowners, you deal with it. What-- my only point is once we start going in and replacing some, it's going to be the public's expectation that the public utility handles all of them. In other words, we'd be in a bad spot if we had \$60 million for lead service line replacements, then what do-- how do we make that equitable amongst all of our customers?

GROENE: So you would-- somebody would get new pipes, but everybody's rates would go up, is what you're saying, to pay for it? Your loan.

RICK KUBAT: That could be part of it. What we don't want to do is tell Mr. Jones on one side of the street: Hey, we've got the federal dollars that were intended for this program to get your lead service lines replaced. We're going to pay for yours. And, and Mr. Smith, across the street, we no longer have any funding. You're on the hook to replace your own. And again, what's important to understand with these lead service line, they don't tend to be in the newer parts of communities with what I would say, higher-valued homes. They, they tend to almost exclusively exist in the older parts of town where folks are on fixed and marginalized incomes, and they just simply can't afford the \$7,000 to \$8,000 cost.

GROENE: To clarify, historically, it's been the homeowner's responsibility to keep his service line up?

RICK KUBAT: I would say-- the, the homeowners own their own service lines. And, and part of our argument is when the federal government dumped all this money into ARPA or the Bipartisan Infrastructure Act, when they provided the states, counties, cities and tribal government, part of their messaging is, and hey, by the way, we really want you to allocate funds for lead service line replacements.

GROENE: Thank you.

HUGHES: OK. Additional questions? Seeing none, thank you, Mr. Kubat, for coming in today.

RICK KUBAT: Thank you for your time.

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HUGHES: Next proponent, LB809. We will switch to opponents to LB809. No opponents? Neutral testimony? Seeing none, Senator Moser, you're welcome to close.

MOSER: Briefly.

HUGHES: Please.

MOSER: Yes. Brevity is the soul of wit. From the main to the home is, is owned by the property owner, the homeowner, and they may be more interested in paying their electric bill or they're buying groceries or something like that than spending six or \$7000 to run a new line from the main to their home. And the change in percentages of from 50 percent to 75 percent also will help small communities with their improvements to their water production in or near water treatment plants. Typically, those are paid back by utility bills. They amortize them out over the number of customers they have and how long their bonds will take to pay off. And so they raise rates to pay for that. So I think it's a, it's a no-brainer to support the bill. The NDEE on this program doesn't get an appropriation, I don't believe, from the state. They operate on the interest that they can charge on their loans, and then they have an administration fee that they can sometimes add to their grants. And I think currently they have around \$300 million in their fund at this time. But that money is coming in and going out all the time. And just as the MUS testifier said, their expenses, you know, it could eat up half of that just right away. So the NDEE has to kind of organize this and do this in a systematic fashion. So I'd appreciate your support for that. If you have any questions.

HUGHES: Very good. Senator Groene.

GROENE: So basically, we're-- I'm not criticizing your bill writing abilities, but this is just [INAUDIBLE] taking the federal requirements and turning it into state law, right?

MOSER: Yes, it, it, it serves two purposes. Yes, it matches the federal requirements and it makes it easier for cities, counties, utility districts to get grants and funds. And before, they couldn't buy debt. So if a city borrowed a bunch or sold a bunch of bonds to do an improvement at a higher rate, the state couldn't help them out. With this bill, they'd actually be able to refinance those bonds for them if they have money in their fund.

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GROENE: That is something unique we put in here acts-- to help access the federal money.

MOSER: Yes.

GROENE: All right. Thank you.

MOSER: Yes. In Nebraska, state law, as I understand it, made it illegal to refinance that debt. I mean, there's a lot of obligation out there, and I'm sure they were trying to be careful, you know, but it's gotten to the point where there's money available and we want to be able to use it. So that's how we get started here.

HUGHES: OK. Additional questions for Senator Moser? Seeing none, that will close our hearing on LB809.

MOSER: Thank you.

HUGHES: I'll turn the meeting back over to Vice Chairman Moser.

MOSER: Welcome, Senator Friesen.

FRIESEN: Thank you, Vice Chair Moser. It's nice being in front of Natural Resources, where I started my career. My name is Curt Friesen, C-u-r-t F-r-i-e-s-e-n, I represent District 34 in the Nebraska Legislature, and I'm here today to introduce LB746. It's a really simple bill. LB746 removes the requirement that the director of the Department of Natural Resources be a professional engineer, as provided in the Engineers and Architects Regulation Act. LB746 does not remove the work experience requirements in Section 61-201. And when you get right down to it, back in the day, maybe the director actually had to do some engineering work when this position was first created. But in today's world, that job entails more of managing a department and people and making sure that that department stays within the functions that it was created. And so I, I look at this as in, you know, as we're going forward, it, it opens up the job pool when you're looking for candidates. You know, in my past experience, we've, I think we've discussed this on different occasions on the floor about having requirements of different directors that maybe don't impact what they actually do today. And so by, by opening up this pool of candidates that can apply for a job like this by taking some of these requirements off that I don't feel that are necessary anymore, it opens it up to a larger, larger pool of people who could apply for this position. And maybe they-- the focus today in some of these departments should be on management of the department and the

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management of people. And so that's the reason for me bringing the bill. I'd be glad to answer any questions, if you have any.

MOSER: Questions for Senator Friesen? Senator Groene, go ahead.

GROENE: Thank you, Vice Chair. What concerns me is this requirement is kind of a firewall to keep this position being political with NRDs and the state, that I could see a political appointment there that really wouldn't have the best interest of everybody involved. But at least an engineering degree, I mean, what's your thoughts? I mean, I just--

FRIESEN: I'd be open to looking at more of the work requirements or some past experiences, spelling those out. But to say that the director needs to have an engineering degree, I don't think is one of those requirements. You know, when you, when you take a pool of candidates, and in the past when you think of engineers, they are, they are always very black and white. Everything is very focused. And today's director is more of a management department. They are managing a lot of employees and a lot of programs that are out there. And to have the ability to manage people and to be an engineer, those are people are one in a hundred, maybe. It takes a special person to be able to do that. And so I look at it as this opens it up to candidates who might be better department managers because they've always hired very competent people in their different departments that they manage to actually run the program. So I just don't feel that having that degree makes you a better manager. And so I, I would be open to any suggestions on work requirements or any experience or anything like that where we can tighten it up to give them more of a, I guess, a path forward for kind of weeding through the people that apply. But it is a political appointment, it is appointed by the Governor. There's not much you can-- it's, it's the applicants that apply. And this to me makes the pool of applicants larger so that it has more choices.

MOSER: OK, other questions? Senator Wayne.

WAYNE: I was thinking the exact opposite, which is usually what happens with me and Senator Groene-- or Senator Groene and I. Why not just make it an elected position?

FRIESEN: I mean, I have no problem with any of those ideas. I was just looking at the qualifications right now and the way we do it. But again, make an elected position a popularity contest isn't always the best either when you're trying to manage a department that falls under the executive branch of government. Now we can write the rules and

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regs, but in the end, the Governor does control the executive branch and kind of controls the direction of some of these departments.

WAYNE: I think he asked my answer-- or my question better than yours, Groene. Thanks.

MOSER: Other questions? Senator Gragert.

GRAGERT: Thank you, Vice Chair. I was just wondering, have you, have you worked with the director of the Nebraska Department of Natural Resources on this idea?

FRIESEN: No.

GRAGERT: You--

FRIESEN: No, it just comes from different times during my legislative past that we've had this discussion on different department heads and this one, and I was looking at the DOT also. But it turns out that in the Department of Transportation, that requirement is not there already. It's just a title.

GRAGERT: Professional engineer, you know, as far as how much engineering do they actually do at this level? But I guess I would see that, yeah, whether because he's a professional engineer doesn't mean he does that, but he knows, he knows enough about the design work that may go on to be able to make decisions.

FRIESEN: But I look at it too, as though you hire good people to be under you and your job is more to manage those different departments that are under you and make sure everything's flowing smoothly. It's not the director's job to make sure that work gets done is my interpretation of how these different entities work. And so I look at it as more of managing those employees that you've hired and making sure that the focus in all the different divisions that they have worked better together.

GRAGERT: Great. A lot of us are only as good as our administration. Thank you.

MOSER: Other questions for Senator Friesen? Thank you for coming to testify for-- with us today. Other proponents of LB746?

DEAN EDSON: Vice Chairman Moser, members of the Natural Resources Committee, my name is Dean Edson, spelled D-e-a-n E-d-s-o-n. I'm the executive director for the Nebraska Association of Resources

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Districts, presenting testimony in support of LB746. NARD represents 23 NRDs in the state. First of all, I want to thank Senator Friesen for introducing this bill. Senator Friesen and I have had-- been involved with the water issues for 20, 25, 30 years going on. We've had these discussions in the past about this position as water laws have changed and boards and commissions were-- had been merged and combined. And I want to appreciate him for bringing this up. I also want to preface my remarks by expressing this legislation is not targeted toward any current or past director. The NRDs have a very positive working relationship with the current director, as well as past directors, and we look forward to many years of continued leadership of the current director. That said, we're looking at this to strike the professional engineer requirement to help ensure when future openings occur, the best overall candidate at the time can be appointed for the expanded duties the department has. The requirement that the director be an engineer has its roots in the early 20th century, when the duties at DNR were performed by the Department of Roads and Irrigation. At that time, the director not only supervised construction of roads across Nebraska, but has also approved constructions of surface water projects. When those agencies were separated back in the early 1900s, the engineering requirement was retained with the Department of Water Resources, but not the Department of Roads and both named at that time. Those departments have, have been merged and changed. The role of the DNR director today is significantly different. The Department of Water Resources was merged with the Natural Resources Commission and their duties have been combined. Under the current role, the director must cultivate partnerships with stakeholders that represent recreation, domestic, [INAUDIBLE] irrigation, industrial manufacturing, ag, aquaculture, livestock, fish and wildlife interest when it relates to water. While accomplishing that task, the director must also keep Nebraska in compliance with state laws and interstate compacts, which are legal in nature and not necessarily engineering-specific. Additionally, the director oversees the Natural Resources Commission, which administers state funds and leads a large team of professionals. A person that can balance all those interests and tasks must have a multiple-- multitude of skill sets that do not limit it to an engineering license. Engineering duties in the department can be hired by the agency director. Like, like at DNR, directors of other state agencies also make regulatory decisions based on highly technical data and information. Examples include the Department of Environment and Energy, the Game and Parks Commission. Despite the technical nature of the decisions these directors make at these agencies, they're not required to hold any professional degree or license. Directors of

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these agencies are experienced based upon their individual experience and qualifications. As for the reasons outlined, NARD supports expanding the pool of future candidates, giving the Governor the opportunity to appoint individuals at the time that best meet the skill sets of demand of the job. If there's engineers that have these skills, nothing prevents them from open competition for the job. A larger candidate pool and open competition always brings out the best candidates. Thus we would encourage you to advance LB746. And I'd be glad to answer any questions you may have.

MOSER: Questions? Seeing none, thank you for your testimony. Any other proponents? OK, are there any opponents? You can go ahead.

MICHAEL DRAIN: Thank you, Vice Chair Moser, members of the committee. My name is Michael Drain, M-i-c-h-a-e-l D-r-a-i-n, I live in Holdrege, Nebraska. I am the natural resources and compliance manager for the Central Nebraska Public Power and Irrigation District, which is the largest hydropower producer and the largest irrigation water provider in the state of Nebraska. I'm here today on behalf of Central in opposition to LB746, which would eliminate the longstanding requirement that the director of the Department of Natural Resources be a licensed professional engineer. Nebraska's water is one of its most valuable resources. Unfortunately, it is also limited, contested and technically complicated resource. The director's most important functions still are such things as approving and regulating surface water appropriations, making determinations regarding groundwater depletions and accretions of streamflow, hearing and ruling on issues as a quasi-judicial fact-finder and representing the state in interstate compacts, agreements and disputes. As a licensed professional engineer, the director is also subject to the requirements of the Nebraska Engineers and Architects Regulation Act, which governs the practice of engineering and establishes important standards regarding education, experience, competence, conflicts of interest and professional conduct. As a result, the professional engineer requirement provides assurance that their director is making important technical determinations on behalf of the state, in both a qualified and an impartial manner. Nebraska's engineer requirement for the director is not unique. Kansas, Wyoming and Colorado, the three states with which Nebraska has the most interstate compacts, decrees and agreements, likewise have these types of, these types of requirements, showing how important these qualifications are. Additionally, the Department of Water Resources-- when the Department of Water Resources and the Natural Resources Commission were merged in 2000, opposition by several water user interests was overcome by a compromise, providing specifically that the professional engineer

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requirement would be maintained for the director position. Removing the engineering requirement now could be seen by some to suggest that such compromises are illusory, and it could hurt prospects for reaching similar compromise on very important water issues in the future. The professional engineering requirement for the director of Natural Resources has served Nebraska well for many decades. It has ensured that the director is both technically competent and impartial in its decisions and has kept the position surprisingly free of politi-- politicization, excuse me, notwithstanding the many strong and competing interests that otherwise exist in the world of water resources. Seeing that I have a little more time, not stated on the paper, but I will tell you Central certainly remains open to conversations with any folks that would like to explore further other ways to increase the ability to open up this position without jeopardizing the protections that the current requirement provides. We do not believe that simply removing the requirement is in the best interest of Nebraska or its water users. And I'd be glad to answer any questions.

MOSER: Senators have questions? Senator Wayne.

WAYNE: How many people are in the department? Do you know?

MICHAEL DRAIN: I'm sorry?

WAYNE: How many people are in the department?

MICHAEL DRAIN: I do not know the size of the department. There are a couple of folks testifying after me that are past employees of the department. They may have a sense of, of how many there are.

WAYNE: OK, I'll ask them. Thanks.

MOSER: Is that all, Senator?

WAYNE: Yes. For right now.

MOSER: OK, thank you. Senator Groene.

GROENE: Thank you, Vice Chair. I didn't catch it, are you an engineer?

MICHAEL DRAIN: I am a professional engineer. Yes, I am.

GROENE: In what?

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MICHAEL DRAIN: My major is I have both a bachelor's and a master's degree in civil engineering, and I specialized in water resources engineering.

GROENE: I kind of looking at the fine print here, but does the requirement say you have to be an engineer with the field of study of hydrology?

MICHAEL DRAIN: That is an excellent question. In fact, while the, while the statutory language does not say that, the sig-- probably one of the significant factors of being covered by the Nebraska Engineers and Architects Regulation Act is it specifically provides that you must practice only in those areas of your expertise. So it would be reasonable to expect a hydrologic engineer, a hydraulic engineer, civil with a specialty in hydrology, an agricultural engineer to be the type of person that would qualify to practice the types of activities asked here. It would not be consistent with that engineer's licensure to, to take this position based upon like an aeronautical engineering degree.

GROENE: But a governor could appoint any--

MICHAEL DRAIN: But if they did, that engineer would be potentially in contra--

GROENE: Oh, breaking their--

MICHAEL DRAIN: --contradiction to the, to the statutory requirements.

GROENE: --their, the code of conduct [INAUDIBLE]--

MICHAEL DRAIN: Exactly.

GROENE: --profession.

MICHAEL DRAIN: Which is codified in Nebraska legislation.

GROENE: So you work in the water industry now with the Central--

MICHAEL DRAIN: Yes, I do.

GROENE: --Irrigation District.

MICHAEL DRAIN: Since 1995.

GROENE: You're surface water, right? Surface water.

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MICHAEL DRAIN: Well, we primarily deliver surface water irrigation and we also have some of the largest incidental underground recharge appropriations and some of the most significant groundwater recharge operations in the state.

GROENE: So if I were to put you in a room and the groundwater interests over here and the surface water interests were over here, what would be the-- three to one, four to one?

MICHAEL DRAIN: Certainly there are, yeah, approximately about four times at least in just in our area. It's about three or four to one groundwater irrigated acres versus surface water irrigated acres.

GROENE: So we open this up to a political appointment and influence with the Governor, who's going to dominate the natural resources department?

MICHAEL DRAIN: With your constructed scenario, you could certainly speculate that it would be groundwater interests. I would point out there's a number of different types of competition: urban versus rural, surface water versus groundwater, east versus west Nebraska and in between various water basins. But you are correct that right now this, we believe this tends to depoliticize the position. And in fact, because of the requirement, the governors have typically-- I've seen about six directors during my time working in water resources. The directors generally are appointed by the Governor putting together a either a search committee or a, or a starting list that they get from multiple water interests from across the state. It's a fairly well-balanced process that's sort of forced on us because, fortunately, this requirement.

GROENE: Just one quick question, maybe somebody could answer it. How many engineers would fit this qualification probably work in the state of Nebraska right now?

MICHAEL DRAIN: Oh--

MOSER: Thousand?

MICHAEL DRAIN: Yeah, I don't think it's thousands, if that's your question, I-- if that's was your answer. It's certainly not thousands. In fact, I doubt within the state of Nebraska that it's hundreds, but certainly there are dozens.

GROENE: There's a pool.

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MICHAEL DRAIN: Like I said, we've had six directors since my time here, which means five have been appointed, and we've never not been able to find someone to be able to fill that position.

GROENE: Thank you.

MOSER: Other questions? All right. Do you have any idea how much the director of the Department of Natural Resources makes? You know what it pays?

MICHAEL DRAIN: Also a question I do not know the answer to. My recollection is that when we did fill the position after Michael Jess with Director Patterson, I do know that the Governor had to increase the salary to, to be able to draw on it. I suppose the downside of trying to get a qualified engineer is an engineer is not a low-paying occupation. I would suggest, though, we've certainly, you know, benefit from trying to draw the best into the area. Certainly, I have no doubt that it's over \$100,000.

MOSER: Yeah. Thank you. All right, thank you very much for your testimony.

MICHAEL DRAIN: Thank you, Senator.

MOSER: Yes. More opponents. Your green sheet?

MICHAEL JESS: No.

KATIE BOHLMAYER: You can fill one out at the end.

MICHAEL JESS: OK. Mr. Chairman and committee members, my name is Michael Jess. Last name is J-e-s-s. I live here in the city within Legislative District 29. I'm a member of the board of directors of the Nebraska State Irrigation Association, and I speak today for the association. If passed, we've heard LB769 would eliminate from 40-- from Sections 61-201 one of two requirements for persons nominated for director of the Department of Natural Resources. The Nebraska State Association-- Irrigation Association opposes passage of the bill, in large measure as the responsibilities you've delegated to the Department of Natural Resources are technical in nature. Examples include dam safety, execution of interstate water resources obligations and coordination of integrated groundwater management plans. Mindful of various specialties, in 1957, the Legislature determined that the director should be a registered professional engineer and have at least five years' experience in irrigation work. As a point of reference, we notice-- we note that Colorado, Kansas and

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Wyoming have similar requirements for the registered professional engineer. We believe both criteria are suitably objective and present a reasonable means for judging, judging competence. Consequently, we believe both requirements should remain in the statute. Last, in the 64 years since adoption of the statute, we note that neither the personal engineer nor the irrigation experience requirement has impeded fulfilling the director's position. Finally, full disclosure from 1981 to 1999, I was the director of the department. Thank you.

MOSER: OK. Questions? So how much did you make?

MICHAEL JESS: I think when I left office, it was around \$70,000.

MOSER: \$70,000?

MICHAEL JESS: Per year.

MOSER: OK. All right. Oh, and also the, for the transcribers, they would like you to spell your first name.

MICHAEL JESS: M-i-c-h-a-e-l.

MOSER: OK, thank you. Other questions for the testifier? OK, I have just one.

MICHAEL JESS: Sure.

MOSER: There are other engineers that work in the department?

MICHAEL JESS: Yes, there are.

MOSER: Are there times when varying theories of operation come forward and the director has to pick one?

MICHAEL JESS: There certainly were a lot of different arguments for different ways of approaching things when I was in office--

MOSER: So did--

MICHAEL JESS: --and you have to decide which was the better way to go.

MOSER: So you think being an engineer would help you pick which theory is or the best direction to proceed would be?

MICHAEL JESS: I do.

MOSER: OK, thank you. Yes, Senator Hughes.

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HUGHES: Yes. Thank you, former Director Jess, for coming in today. How many people worked in the Department of Natural Resources when you were, when you were director? Just a ballpark.

MICHAEL JESS: I believe it was 53.

HUGHES: And that stayed fairly constant throughout your tenure?

MICHAEL JESS: It did.

HUGHES: OK.

MICHAEL JESS: Increased, of course, when the two agencies were merged into a single one.

HUGHES: Right.

MICHAEL JESS: I don't know the number that it is today. I suspect it's at least 100 or so.

HUGHES: Yeah. OK, very good. Thank you for coming in today.

MOSER: Senator Groene has a question.

GROENE: Thank you. What other-- we always-- water is the thing in Nebraska. But is there other areas of natural resources the department handles or is it just water?

MICHAEL JESS: It's primarily water. Dam safety is pretty much purely engineering, it's incidental to water, but it is structural engineering at play.

GROENE: You inspect canal systems?

MICHAEL JESS: They are inspected periodically, not necessarily for safety, but to be certain that the water will be conveyed successfully to the irrigated fields.

GROENE: All right. Thank you.

MOSER: OK, other questions? Thank you for your testimony.

MICHAEL JESS: Sure.

MOSER: Good afternoon and welcome to Natural Resources.

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ANDREW DUNKLEY: Good afternoon, Vice Chairman Moser and committee. Thank you very much for having me. My name is Andrew Dunkley, that's A-n-d-r-e-w D-u-n-k-l-e-y, I am the director of state governmental relations with the Nebraska Farm Bureau. I will keep this very short, as I'm not an expert on the department, but I wanted to come forward and say on behalf of the members of the Farm Bureau that we thank Senator Friesen for bringing this, this-- introducing this bill. And it's an important topic. And everybody, every single member of the Farm Bureau wants the best person for the job to protect our natural resources, specifically our water. It's, it's such an important role, and that is the reason why they-- our members saw fit to include that in our state policy. I believe it was passed in 2019. They feel it is very important that the director be an engineer, a licensed engineer or a licensed hydrologist, and I made sure to look up that it was a licensed engineer or a licensed hydrologist. So whatever definition that the-- it states in the job description now, that is the, the basis of the Farm Bureau. We, we want to, to be involved with any discussions moving forward of widening the, the role or how we can approach management going forward. But I will leave it at that and just speak on behalf of the Farm Bureau members, and I'm open to any questions.

MOSER: Questions from the committee? OK, thank you very much for your testimony.

ANDREW DUNKLEY: Thank you very much.

MOSER: Yes, next opponent. Go ahead. Thank you.

JEFF SHAFER: Vice Chairman Moser, members of the Natural Resources Committee, my name is Jeff Shafer, J-e-f-f S-h-a-f-e-r. I am a water resources adviser for the Nebraska Public Power District. I've worked in this position since 2006. Before that, I spent six years with the Department of Natural Resources, holding positions as the state hydrologist assistant and interstate streams engineer. I have a bachelor's and master's degree in civil engineering from the University of Nebraska, and I am a licensed professional civil engineer in the state of Nebraska. I am testifying in opposition to LB746 as introduced. Water is essential for power generation in Nebraska and other places, whether it be for cooling thermal power plants or generating hydroelectric power. NPPD is affected by Department of Natural Resources' actions and activities, as we hold over 120 surface water rights for storage, irrigation, cooling and hydropower. We operate four canal systems, maintain six reservoirs, and have been actively involved in the development and operation of

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integrated management plans in the Upper Platte River Basin. Therefore, the qualifications of the director of the Department of Natural Resources are important to NPPD. Just to clarify a little history that we've heard of a couple of times, prior to 1969, the statute read that the director of natural resources "should" be a professional engineer. And in 1969, Maurice Kramer, who is best known for establishing ground water laws to help protect Nebraska's water resources, introduced legislation to change that to be "shall" be a professional engineer. His reasoning was simple. Most of the duties and responsibilities of the director are of an engineering nature. The duties he cited included duties related to construction, inspection and maintenance of dams, the installation and maintenance of river and canal flow-monitoring gauges and activities related to water control and management. The Department of Natural Resources continues to undertake all of those responsibilities today. We've heard about others, but they maintain these engineering duties and responsibilities today. And for that reason, NPPD believes that maintaining the licensed professional engineering requirement is in the best interest of Nebraska, and therefore we request the committee not advance LB746 as introduced. Our concerns can be live alleviated if statutes were changed to keep the engineering duties and responsibilities under a licensed professional engineer, and we're more than willing to visit with other stakeholders and work towards that solution. I would have to-- be happy to answer any questions.

MOSER: Questions from the committee? Seeing none, thank you for your testimony. Are there other opponents?

JEANNE McCLURE: Good afternoon. I am Jeanne McClure, J-e-a-n-n-e M-c-C-l-u-r-e, and I'm the executive director of the engineering business association ACEC Nebraska. We represent 48 engineering firms doing business across the state, and we employ more than 3,000 individuals there. ACEC Nebraska's initiatives-- initiatives create enhanced business climates for our members which are engaged in engineering and construction projects that propel Nebraska's and the nation's economy and enhance and safeguard America's quality of life. I'm here today to testify in opposition of LB746. It's our concern that though Senator Friesen is always well-intentioned and practical, we respectfully disagree with him on this, on his stance, and we believe there are unintended consequences that can come as a result of this bill. Professional licensure is an ongoing process set up by the Nebraska Legislature to protect the health, safety and welfare to the public. This is defined in state statutes and is regulated by the Board of Engineers and Architects. A PE, or professional engineering, license requires rigorous standards to obtain and ongoing education

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and professional conduct to maintain. The directory of the Department of Natural Resources in the state of Nebraska has many areas of oversight, and you've heard about many, many of those today. The director oversees a \$700 million budget in civil works projects stewarding the Neb-- taxpayer dollars and oversight of our state's precious natural resources. The director also has jurisdiction over permitting and is the final decision over technical actions and rulings by the department as defined in statute as well. The bill as written leaves only the requirement of at least five years of irrigation experience in a position of responsibility in irrigation work. Earlier today, Senator Friesen and I joked about the fact that I grew up on a farm, he's a farmer and we both might have supervised irrigation, but neither of us would be qualified. The director has-- does have an immediate impact on the health, safety and welfare of all Nebraskans, and it's important to know that he or she is qualified to do those responsibilities. The PE license, with its rigorous education experience and examining-- examination requirements is the appropriate qualification of the natural resources director. Earlier, there were a couple of questions about the salary. That is currently \$170,000. So Mr. Jesse [SIC] that's gone up a bit since he was there, and there are a hundred employees there. So I'd take any questions, if you have any.

MOSER: OK? Questions for the testifier? Seeing none, thank you very much for your testimony. And thanks for correcting those things for us. Other, other opponents. We also received a letter of support from the Nebraska Cattlemen from Ashley Kohls, and that's in your paperwork, if the committee members want to read that. It's public record if anybody else wants to read it. OK, are there any neutral testifiers?

JON WILBECK: Good afternoon.

MOSER: Welcome.

JON WILBECK: Thank you. Senator Moser and members of the committee, My name is Jon Wilbeck, that's spelled J-o-n W-i-l-b-e-c-k. I am the executive director of the Nebraska Board of Engineers and Architects and testifying about the board's neutral position on this. Thank you for the chance to speak. I will make this brief. The board has been responsible for enforcing Nebraska Engineers and Architects Regulation Act since the board and act were created in 1937. The practice of engineering is regulated in the state and defined in this act, and the handout is a transcript of the statute that defines the practice, along with some other sections pertinent to my testimony. In general, the qualifications of a professional engineer are there's three what

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we call "legs of the stool" they have to meet. The first: education. Typically, that's an accredited bachelor's degree in engineering, typically a four-year degree. They do have to pass two separate engineering exams. One is a fundamentals of engineering exam that they usually take during their senior year of college. But beyond that, there is usually an eight hour practice and principles and practice of engineering exam that they take and have to pass. That's a national exam, by the way. And then they have to have four years of progressive engineering experience. Our board looks at that when they apply for licensure and then the board grants its licenses. In general, our act says that it's unlawful for anyone to practice engineering in Nebraska unless they are a licensed professional engineer. So just two items I'd like to bring to your attention. First, while the board does not know what the responsibilities and qualifications of the director are other than what's been, some other testifiers have brought up and what's currently described in the Section 61-201, if the director of the department is required to perform work that falls under the definition of the practice of engineering, he or she could be practicing engineering without a license if they're not a licensed PE, which is not allowed under our act. Finally, this was also brought up earlier, if the director has the authority to reverse engineering decisions made on permits or other work done by licensed PEs working with the department, then again, that could be construed as practicing engineering unlawfully if the director is not a licensed PE. And that concludes my testimony, happy to answer any questions.

MOSER: Questions? OK, seeing none, thank you very much for your testimony.

JON WILBECK: You're welcome.

MOSER: Anybody else that wants to testify in the neutral capacity? OK, that closes our hearing on LB74-- oh, I'm sorry. You get the last word, Senator, I apologize.

FRIESEN: Thank you, Senator Moser.

MOSER: Not that I don't love you, I just forgot about you.

FRIESEN: That's all right. I'm just kind of hiding off on the side there.

MOSER: Yeah, you're easy to miss.

FRIESEN: So I'm, you know, listening to the, the testimony, I mean, it was mostly the engineering profession testifying in opposition. And

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again, I'm not saying that the director doesn't-- couldn't be an engineer. If they're the best candidate, so be it. It just opens up that pool. And you know, some of the comments, I don't think we're ever going to see the director out, you know, inspecting dams or looking at some engineering project. Because when you look at the department and it's managing around 103 employees, according to our research, there's about six divisions. And you know, there's a legal department, there's engineering departments. So maybe the requirement in today's world should be having a lawyer's degree or a law degree, because most of our water issues are adjudicated in a court of law. So we balance this out in how we do water law in Nebraska and protect our resources. So to say that they're required to be an engineer, or maybe that even isn't the best requirement for that director to have if we look at what their job description is. So I'm-- again, I, I just would like to open up the pool to more people that might have skillset that is equal to or whatever is available, because people who have an engineering degree, it's a very small pool to choose from. And so by opening it up, and when you're managing 100-plus employees and those different divisions, you have to have a skillset that might be a little bit different than what an engineer has. That's my point, mostly, in looking at how we can probably have the best person for the job. So with that, I'd answer any questions you may have. Thank you.

MOSER: OK. Questions for Senator Friesen. Thank you very much.

FRIESEN: Thank you.

MOSER: That would close our hearing on LB746. And now we switch to LB775. Welcome to the Natural Resources Committee.

TONY BAKER: Thank you, Senator Moser, or I should say Vice Chair Moser. And good afternoon, senators of the Natural Resources Committee. I am Tony Baker, that's spelled T-o-n-y B-a-k-e-r, and I am here to introduce LB775 on behalf of Senator Brewer, who's in a lengthy bill hearing in the Government Committee right now. This will be a short introduction, Senator Brewer didn't round up a bunch of constituents to come testify on behalf of this bill. This is a pretty short and easy bill to understand, it only adds one sentence to the law. This bill would ban a wind turbine blade landfill in Nebraska. Senator Brewer's reasoning on this is we've got the best fresh water in Nebraska, and he thinks it's a bad idea to filter our rainwater through several feet of shredded fiberglass and various exotic industrial adhesives on its way down to the aquifer. And he thinks having a landfill full of unrecyclable waste is not a good idea to filter our rainwater through. He told me to read a quote to you. It

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says put on-- put an X on the map where the wind turbine graveyard is going to be and watch what happens, is what he asked me to say. In some respects, Nebraska is kind ahead of the-- ahead of the curve here. It wasn't until 2010 when LB-- or it was 2016 when LB824 was passed. That bill exempted wind energy from having to go to the Power Review Board and be approved. That bill was passed by Senator McCollister. And when that happened, wind energy development really took off fast in Nebraska. We've got almost a thousand turbines. I counted up on the database just before I came in here. It's 949 wind turbines have been built in Nebraska. Each one of them makes about 50 tons of unrecyclable waste. And as these blades age, they need to be replaced about every 10 or 15 years. And so since wind energy development started in about 2010, we're getting to the point now where a lot of the turbines are due to be scheduled for blade replacements and so forth. And so this will become a more of a pressing issue as time goes by. If this law passes, then we don't have to deal with this problem as a state because we're just not going to allow it in Nebraska. They do it in Texas, Iowa, Wyoming, South Dakota, Oklahoma. There's a variety of places. I understand Butler County, Nebraska, was accepting wind turbines in their landfill, but it's full now. And so to my knowledge, there's no place to dispose of them in Nebraska. Anyway, subject to the discretion of the Chair because staff normally isn't questioned, that concludes my presentation. Now I'm ready to be questioned. Senator Brewer told me that I'm supposed to take questions, but it's up to the Chair.

MOSER: That's fine with us. If anybody, any members of the committee have questions. Yes, Senator Groene.

GROENE: We like questions. Thank you, Vice Chair. So there are some being buried already, these hundred and-- what or how long are they, 120 foot or so?

TONY BAKER: For the five megawatt turbines that they're putting up right now, the really big ones, each blade is 60 meters long. I don't know. I'd have to convert that to feet.

GROENE: And these things are not biodegradable at all?

TONY BAKER: The only use for them I've heard of in the reading and research I've done is they chop them up and they use them for reinforcement in concrete. That's the only thing, I guess they build new wind turbine footings with chopped up wind turbines in the footings, which is pretty much the only good use of wind turbine I can think of.

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GROENE: And you mentioned a bunch of states, they do take--

TONY BAKER: Presently are taking.

GROENE: Texas, Iowa.

TONY BAKER: South Dakota, Wyoming.

GROENE: Each individual city landfill is taking them or are there a central point?

TONY BAKER: I read an article the other day where there was two towns in Colorado, both their landfills took the blades. One landfill was filling up and they stopped taking the blades. And then that caused there to be a bill in the Colorado legislature where it would require all landfills to take it. So if the county owns a landfill or a city or town or municipality owns it, that sets up a feud between them and the state. But I imagine that's handled, handled on a case-by-case basis. This would establish in Nebraska law that we're not going to bury wind turbine blades in Nebraska.

GROENE: So if junk car dealers all over the place, can some guy with a passion for prairie dogs that's nonproductive start parking wind turbines out there?

TONY BAKER: I think you'd have to ask Senator Brewer that question, Senator Groene.

GROENE: Thank you.

MOSER: Senator Hughes.

HUGHES: So you said that there was a landfill in Butler County that was taking blades.

TONY BAKER: Uh-huh.

HUGHES: Were they taking them from in state or out of state?

TONY BAKER: Couldn't tell you. I just know they accepted them for a while and it got full and they don't accept them anymore. I don't know if they took them from other states. I would assume they took them from Nebraska.

HUGHES: I guess in your comments, you said that the wind turbines in Nebraska were kind of reaching, the blades were reaching their end of

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their life cycle. So I was just curious if we were taking blades from other states or only from Nebraska.

TONY BAKER: I don't know.

HUGHES: OK.

TONY BAKER: I know Texas has about 10 times more wind energy built than we do. And they got started at it. The first wind turbine got put up here by I-80. Those two you see when you drive to Omaha, those got built in 1998. And so Nebraska is about 10 years behind some of the other states that were building wind energy a lot sooner than we were.

HUGHES: Thank you.

MOSER: Senator Gragert.

GRAGERT: Real quick-- thank you, Vice Chair. Real quick, would this include private property, like if I owned some-- and maybe it's a follow-up to what Senator Grone [INAUDIBLE] but to clarify. So that would outlaw if I wanted to put-- the bury blades on my land, this bill would, it would make it--

TONY BAKER: Well, I, I sit in an office with a lawyer all day, so I'll be a, a Holiday Inn Express lawyer and say, yes, it would.

GRAGERT: OK, thank you.

MOSER: You don't play one on TV, but you think you know the answer?

TONY BAKER: Well, if you sit six feet away from Dick Clark all day, some of it rubs off.

MOSER: You might learn how to play the guitar.

TONY BAKER: What's that?

MOSER: You might learn how to play the guitar sitting next to him.

TONY BAKER: I doubt that skill is going to transfer.

MOSER: Other questions for the testifier? OK, thank you very much, sir. Appreciate your attendance today.

TONY BAKER: Thank you.

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MOSER: Other proponents of LB775? Seeing none, are there opponents to LB775?

RICHARD LOMBARDI: Good afternoon.

MOSER: Welcome.

RICHARD LOMBARDI: Chair Senator Moser, members of the Natural Resources Committee, my name's Richard Lombardi, L-o-m-b-a-r-d-i. I'm appearing today in opposition to LB775 on behalf of the Advanced Power Alliance, the Advanced Power Alliance is a regional trade association of wind and solar and battery developers serving most of the Great Plains. And many of their members are involved in wind development, solar development, battery development in the state of Nebraska. Our purpose of opposing this is that strictly from the fact that you're making an activity of commerce illegal. Anybody that does business in the state has issues of disposal, disposing of solid waste. The, the information that I just passed out to you kind of throws-- when you talk about wind turbine blades in context with all the other solid waste issues that we wrestle with. Now, although this is a national look at and solid waste, I think it's reflective of what, of what we might find in the state of Nebraska. Now, clearly with our members who were on the opposite side of, I think, this page, some you may recognize, some you may not, certainly a big part of our brand is being environmentally conscious. We don't pollute water. We do not pollute air when we generate electricity. We do not use water to, to cool the electricity that we're doing. And in fact, 90 percent of our entire wind, wind plant is actually either recyclable or re--repurposed. Clearly the blades are an area that our industry is wrestling with and others on how to repurpose, reduce it, reduce the waste and reduce some of the components of it that are in the front end, as well as the extensive repurposing of blades. And then the recycling aspects of that. We, we are, we are trying to do our best in, in working in this area, and I suspect that, that you will see a lot of development in those technologies down the line. But this industry is an economic driver. It's part of the growing market of renewable energy that's happening all across our nation and all across the world. We think that, that trying to discriminate against this particular industry by not allowing access to, to landfills that are available to any other solid waste, that that would be not very good policy. So that's kind of the long and the short of it from our standpoint. We're like any other business that we have some utilizations of solid waste and there is-- to make it illegal to be able to utilize solid waste, I don't think is, is, is, is in the best interest of the state and in the best, certainly in the best interest

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of our, our growth of the economic drivers that we have going on in our economy in the state of Nebraska. I'll stop right there, Senator.

MOSER: OK, do we have questions for the testifier? I have one-- oh, go ahead. Go ahead, I'll go last.

GROENE: Your list here-- thank you, Chairman-- or Vice Chair. Your list here: food, clothing, yard trimmings, diapers are all biodegradable or biodegradable. Tires you can chop up and put it in pavement. Towels, sheets and pillowcase also biodegradable. Trash bags you can incinerate them; plastic plates, you can incinerate them. Is there's a little bit of difference between them and a wind turbine isn't there--

RICHARD LOMBARDI: Well--

GROENE: --and the rest of those?

RICHARD LOMBARDI: --is there a difference between fiberglass and construction disposal? I mean, it's basically fiberglass and wood. So I mean, that's--

GROENE: So what is the industry doing with them now in the other--

RICHARD LOMBARDI: Yeah, I think it was mentioned that there are extensive efforts going on with regard to breaking it down, pulverizing it, making it a part of a mix of a concrete mix. There's a number of-- since Europe is ahead of us, there's a bunch of applications of actually using and repurposing the blades for, for bridges, for, for sound barriers on highways, for a number of innovative applications of, of different types of urban design changes for bike racks to, to, to fire, fire hydrants. So there's a lot of work being done that-- there is also an extensive amount of work being done with regard to different types of, of, of-- there's, there's a bunch of work being done by the renewable energy lab of changing the components that make up the blades to make them even more recyclable.

GROENE: So what is the main reason they have to be replaced? Structural failure or crash or what? Or new designs that make them more efficient or lighter?

RICHARD LOMBARDI: There's-- I think you've hit both of them. Yeah, I think that there's a, there's a lot of really innovative design happening and an efficiency that's going on with blade development right now that's, that's really dramatically increased the efficiency of them.

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GROENE: Thank you.

MOSER: Senator Hughes.

HUGHES: Yes. Thank you, Mr. Lombardi, for coming. So I'm just curious, the landfills that are accepting blades, do they-- are they whole or are they chopping them into pieces?

RICHARD LOMBARDI: Both, I think, Senator.

HUGHES: Depending on how the company brings them or the requirements of the landfill?

RICHARD LOMBARDI: It really requirements, I mean, it's all really up to the, to the landfill. And as you know, the financial responsibility for disposing them is clearly falls on, on the companies that have the product. You made sure of that in--

HUGHES: And so do they charge by the pound or by the foot or--

RICHARD LOMBARDI: It probably depends upon the landfill, but there are some general tipping fees that would apply to the, to the weight and the mass of the, of the product. But it would probably vary from landfill to landfill.

HUGHES: So are they isolating them from other material going into the landfill? Do they bury them in a separate site or they mix them in with everything else or they have categories of--

RICHARD LOMBARDI: Good question. Good question, Senator. I do not know.

HUGHES: I mean, I've seen pictures of, you know, big trenches with full blades in them.

RICHARD LOMBARDI: Right.

HUGHES: You know, and no other garbage. I was just curious if you as an industry-- so the-- you said your Advanced Power Alliance is a Midwest group?

RICHARD LOMBARDI: Well, it's actually made up of a number of nationally-- when you take a look at the, on the back page, those are companies that, that operate around the nation, around the world, actually in, in developing wind in generally renewable electric utility scale of energy development. And it also reflects investors.

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There's a lot of, lot of corporations that are getting involved. And you see Google on the list, for instance. They, there's a lot of, there's a lot of expansion of interest by major corporations to actually owning the means of electrical production.

HUGHES: OK, so you're the registered lobbyist for this--

RICHARD LOMBARDI: Yes.

HUGHES: --in Nebraska?

RICHARD LOMBARDI: Yes.

HUGHES: Anywhere else?

RICHARD LOMBARDI: No.

HUGHES: Just Nebraska.

RICHARD LOMBARDI: Yes.

HUGHES: OK, very good. Good to see you again.

RICHARD LOMBARDI: Good to see you, Senator Hughes.

MOSER: Senator Gragert.

GRAGERT: Thank you, Vice Chair. Couple of questions. How long, what's the lifespan of the blades on these towers?

RICHARD LOMBARDI: They-- we usually have used the 25, 20 to 25-year in, in our projections. There has been a lot of rapid developments of blade design and you have seen some repowering occurring of existing wind projects. So they-- but I think we're usually using around 25 years as the lifespan for, for wind blades.

GRAGERT: Are you familiar then with Butler County and their landfill accepting blades?

RICHARD LOMBARDI: I am not. I mean, obviously they're a very active landfill in that they take from inside the state and outside the state. So I'm not familiar specifically with, with their--

GRAGERT: You were just with the-- maybe, maybe that was 9-- 949 wind turbines and then there's three blades per turbine.

RICHARD LOMBARDI: Yeah.

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GRAGERT: It comes out to 2,847 blades then. What kind of, what kind of landfill is that gonna take? Do you have any idea what kind of massive territory that's going to require to bury or--

RICHARD LOMBARDI: The, the volume of that, and again, that's why I wanted to give you the solid waste comparison, because you will see it to be a fraction of all the other solid waste that you have to navigate. So although the, the items themselves are very large, the, the overall volume compared to the rest of the solid waste that we have to manage in this country, it's relatively small. But yes, the-- and as I indicated that there is an aggressive activity on repurposing some of the, of the, of the blades as we go now. And the blades are of such, I-- I, I can't tell you about places. I haven't seen anything that suggests that somehow those blades are doing anything to contaminate water, water supply. I mean, they're built out of the fiberglass and resin that repels water. That's one of the problems in some respects, so it's, it's-- there's, there's probably a number of other things in your landfill that have runoff problems, but I don't know if the blades will be that.

GRAGERT: That was going to be my next question. So no part of that blade is considered hazardous material?

RICHARD LOMBARDI: No.

GRAGERT: OK, then the-- OK, lost what I was gonna ask you.

RICHARD LOMBARDI: It's all right, it's late. Thanks.

MOSER: OK, any other questions? I just have a couple. When you say that it's a pretty small percentage of the total waste, are you going by volume or weight?

RICHARD LOMBARDI: I think this is a percentage of total waste. And then you can take a look on this sheet again and you'll see the tons compared to the other tons. And then the, then the, the percentage of total waste. So the tonnage--

MOSER: So if they're hollow, it could be a lot larger volume than other waste. But it's just that it's lighter than other waste?

RICHARD LOMBARDI: It's pretty heavy. It's, it's the, the blades are--

MOSER: Yeah. There's no point in trying to resolve that question, I guess. What's your background? Are you an engineer or an attorney or--

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RICHARD LOMBARDI: No, I'm a registered lobbyist. I got much of my training in this building, actually. I was on legislative staff and then got into lobbying.

MOSER: OK, thank you. Any other questions? You thought of your other question?

GRAGERT: Biodegradable, so that-- once we bury that blade, it's going to be there forever? It's not going to, it's not going to deteriorate?

RICHARD LOMBARDI: Yeah, I haven't seen any studies. There probably are some.

MOSER: Speak into the microphone.

RICHARD LOMBARDI: Oh, sorry, I haven't seen any studies about the-- it's not a biodegradable type of product. It's very--

GRAGERT: OK.

RICHARD LOMBARDI: But I think that what is happening is that, that there is a movement to-- that it will be pulverized and made part of, of, of cement as an additive and adhesive.

GRAGERT: Thank you.

MOSER: All right. Any other questions? Thank you very much for your testimony.

RICHARD LOMBARDI: OK, Senator, thank you.

MOSER: Other pro-- or I'm sorry, opponents?

AL DAVIS: Good afternoon, Senator Moser. How are you?

MOSER: Welcome.

AL DAVIS: My name is Al Davis, A-l D-a-v-i-s, and I'm here today representing the 3,000 members of the Nebraska Sierra Club. First of all, I just want to thank the-- you all for taking your time this afternoon. I appreciate the Unicameral's structure and how unique it is that every bill gets an opportunity to have a presentation. So thanks for that. You can probably surmise that the Sierra Club opposes this bill for a number of reasons. But first, I want to say I think that this bill, you know, Senator Brewer has been opposed to wind energy for a long time, so this is basically just another attempt to kick sand in the face of an industry that has provided millions of

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dollars in income to ranchers and farmers around the state, millions of dollars in tax relief through the through the nameplate capacity tax, dozens of jobs contributes to lower power rates in the state because of the way wind energy is built, and you heard about that earlier. So I think it's an industry that really is maligned and misunderstood in many respects. You know, it's really one of the most ecologically pure industries. Yes, there are issues with these blades, which I think the industry is trying to, to solve that. You know, the one question on the, on the statement of intent, it talks about leaching into the aquifer. And as you probably all know, I think it was in the 90s, we have these new rules about waste facilities and we have to have layers of clay. So I think the risk of any sort of contamination of the water table is negligible, especially when you compare it to every other industry in the state of Nebraska which does contribute to water contamination over time. So that's just something to think about. But my real point is that of the very-- on the fiscal note, I don't know if any of you have looked at that. The person who put that fiscal note together said, you know, since there are no landfills in the state of Nebraska that are taking these turbine blades, there's no fiscal note to the bill. So I mean, if there's no landfill taking them, there's no need for the bill is our point. So we are opposed to the bill. And I can't answer the same kind of questions that Mr. Lombardi can, but I just want you to know how we feel. Thank you very much.

MOSER: Thank you for your testimony. Are there questions? Senator Hughes.

HUGHES: Yes, Senator Davis, good to see you again.

AL DAVIS: Thank you. You too.

HUGHES: So my understanding, the, the wind turbines out around Kimball have been taken down and rebuilt. Do you know what they did out there with, with the old ones, how they disposed of them?

AL DAVIS: So I don't know that. But my-- I would surmise that maybe those plates went to Casper. I think that all the picture that we've all seen, you know, on the internet was taken in Casper at a landfill there. So if, if I were to speculate about that, I would suggest that's worth a look.

HUGHES: I didn't know. So how then how about the, the pedestal or the tower. Is that made out of steel? I mean, is that recyclable or is that buried too or do you know?

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AL DAVIS: It is made of steel, I'm sure. I'm sure it can be recycled, but you know, I'm not an expert in the field.

HUGHES: OK, very good. Thank you for coming in today.

AL DAVIS: Thank you.

HUGHES: Good to see you.

MOSER: Other questions for the testifier? Yeah, I would wonder if the blades could be made out of something that is recyclable. You know, I'm sure aluminum or something would be more expensive, but that would be a material that could be melted down and--

AL DAVIS: Could be. You know--

MOSER: --repurposed.

AL DAVIS: --the one thing I would say is we have-- boats been made out of fiberglass for years. So what's happened to all these old boats that people end up junking? You know, do they end up going to the landfill somewhere and sitting there for thousands of years? And I would think that if you really got right down to it, you'd find that, you know, there's a lot of fiberglass that's already being dumped in different landfills around the country. I mean, I don't think this is any sort of unusual thing.

MOSER: Yeah. All right, thank you.

AL DAVIS: Thank you.

MOSER: Appreciate your testimony. Any other opponent? Is there anyone here to speak in a neutral capacity? Seeing none. The rule is staff don't usually close, but the rules don't apply to Senator Brewer, so.

HUGHES: There at the bottom of the lake.

MOSER: Do you have any other comments to make that you think that Senator Brewer would make if he were here?

TONY BAKER: Oh, wow, that's--

MOSER: All right, I'll let you off the hook.

TONY BAKER: I, I--

MOSER: Maybe you should suggest--

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TONY BAKER: I would just like to thank Mr. Lombardi for the aggressive efforts of the industry to find solutions to recycle these things, then we won't need a landfill.

MOSER: Yeah, maybe we can have a wind turbine gate where they stack them like Stonehenge, you know.

TONY BAKER: You're putting so many of them right through the strike zone, Senator, I'm having a hard time not swinging.

MOSER: That was supposed to be humorous. It wasn't great. OK, that concludes our hearing today. Thank you all for attending. Our hearings are officially concluded.