

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 1, 2024  
Rough Draft

**BREWER:** Good afternoon and welcome to the Government, Military and Veterans Affairs Committee. I'm Senator Tom Brewer representing the 43rd Legislative District, and I am the Chair of this committee. The committee will take up bills in the order that they are posted on the agenda, and those are LB925, Senator Aguilar; then LB1169 with Senator Erdman. And the last one is LB887, which is mine. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us. Committee members will come and go during the hearing. This is just part of the process. They will be introducing bills in other committees. Asking that you abide by the following procedures today. First, I would ask that you would be sure and silence your electronic devices or phones. The introducing senator will make the initial statement followed by proponents, opponents, and those in the neutral. Closing remarks will be reserved for the introducing senator. If you're planning to testify today, we would ask that you fill out one of the green sheets, have it completed and ready when you come forward. Turn that in to the committee clerk or one of the pages. We'd ask that you take the time to fill it out so that we can legibly read it. And that will make documentation of everything a whole lot easier. If you're here today and you want to record your presence but not testify, there are gold sheets over there, ask that you fill those out. All right. If you have handouts, we ask that you provide 12 copies. If for some reason you don't, let us know. We can have the pages make additional copies. When you come up to testify, I would ask that you would speak into the microphone and state your name, first and last, and then spell them. Again, this is to put in the official record. Today we'll be using the light system. You'll have 3 minutes. You'll have the green light for 2 minutes, the amber light for 1 minute. When the red light comes on, your time's expired. If you don't notice the red light, there will be an audible alarm. When the alarm goes off, if you haven't stopped, you will then. No displays of support or opposition to bills, vocal or otherwise, will be allowed by the audience. Committee members with us today will introduce themselves starting on my right.

**SANDERS:** Good afternoon. Rita Sanders representing District 45, which is the Bellevue/Offutt community.

**BREWER:** Ray, you want to just do yours?

**AGUILAR:** Senator Ray Aguilar, District 35, city of Grand Island.

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**LOWE:** John Lowe, District 37: Gibbon, Shelton and Kearney.

**HALLORAN:** Good afternoon. Senator Steve Halloran, District 33, which is Adams, Kearney and Phelps County and 33 is the heart of south central Nebraska.

**BREWER:** All right. The committee legal counsel is Dick Clark, committee clerk, Julie Condon. The Vice Chair of this committee is Senator Sanders. With that, we will introduce our pages. Cameron, there he is on the corner there, political science major and history, UNL senior from Omaha. Next to him, Kristen, she's a political science senior at UNL from North Platte. All right, Ray, you may begin whenever you're ready.

**AGUILAR:** Good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Senator Ray Aguilar. That's spelled R-a-y A-g-u-i-l-a-r, district-- representing District 35. As policymakers, we should attempt to avoid discrimination against Nebraska companies and provide consequences for those who practice this type of discrimination. This bill prohibits state and local government's entities from entering into a contract with a company that has a policy or practice that discriminates against the firearm industry businesses because they are part of the firearm industry or are a firearm trade association. Many successful businesses in the firearm and ammunition industries have faced discrimination by providers of financial services or insurance companies due to the very nature of their legal and regulatory compliant business. Some of the largest and most powerful corporations in the country are looking to use power to financially cripple the firearms, ammunition and shooting sports industry, as well as other industries based largely, largely on the political or social views of their corporate leadership. With respect to the firearms industry, private corporations are using their economic position of power to restrict a constitutionally protected right in a manner that would be impermissible. This legislation would give awareness to whether these companies have a policy that discriminates and provides that government entities preferentially contract with a nondiscriminatory service provider if a reasonably competitive service is available. Following my introductions, you hear from the director of government relations and state affairs of the Firearm Industry's Trade Association that can explain more on the history of this issue and a constituent who-- to share locally how it's affected them. I also have an amendment I would like the committee to consider in order to clarify that the government entities that are considering contracts

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with businesses may still use the company that, that offers a bid, because no reasonably competitive alternative exists and the duties of the government entity cannot reasonably be met through other means. That's the nature of the beast here, and I'll be glad to try to answer any questions you have.

**BREWER:** All right. Thank you, Ray, for that opening. Let's see if we have questions. Any questions for Senator Aguilar? Senator Lowe.

**LOWE:** Thank you. Senator Aguilar, what-- who brought you the bill and what's their reasoning?

**AGUILAR:** Well, I had a meeting with the local constituent who owns an ammunition factory, and he explained the situation to me and brought in other people to more or less talk about the situation and explain how bad it really was. And it's, it's very difficult, especially when it comes to getting insurance.

**LOWE:** All right. Thank you.

**BREWER:** All right. Additional questions for Ray? All right. Senator Aguilar, you'll hang around for close?

**AGUILAR:** Yes, I will.

**BREWER:** All right. Thank you. All right. We're going to start with proponents. If we have one identified for the firearms industry, come on up. Welcome to the Government Committee.

**NEPHI COLE:** Mr. Chairman and members of the committee, my name is Nephi Cole. That's N-e-p-h-i C-o-l-e. I'm the director of government relations and state affairs for the Firearms Trade Association of America, the National Shooting Sports Foundation. We represent over 10,000 manufacturers, retailers, distributors and other businesses in the firearms industry. If companies make a choice to have a discriminatory policy against the Second Amendment, they should have to tell you about it. If you can, you should do business with someone else. That's what this bill does. We're here to support LB925 because our members have a history of being discriminated against by financial and other services. In 2013, the Obama administration senior, senior officials leveraged corporate America's banking industry to harm our industry in a destructive Operation Chokepoint is what they called it. The goal was denial of financial services to our industry. They used officials at the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation to penalize companies for doing

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business with our legal entities. Those providers cancel firearm industry contracts without explanations. Some maintained relationships, but demanded new collateralization or charged higher rates for standard services. Damage was done. Businesses were lost. Those levels of discrimination to a large degree became baked in. And administration change brought investigation and congressional oversight. The FDIC issued a letter suggesting that they abandoned the categorical approach that they had been pushing and that companies take a risk-based approach in assessing individual customers' relationships, rather than declining to provide banking services to entire categories of customers. But groups of activist shareholders saw this potential, and they expanded that corporate activism. In 2018, a number of too big to fail mega banks pushed by activists announced social policies that included firearms related prohibitions, policies meant to limit the right to keep and bear arms, curtail lawful commerce, and prejudicially increased costs to the firearms industry. That harm was not theoretical. It is real. It happened and it's happening. Those companies have said, and we agree, they have a right to determine their policies, but so should you. Just like they can choose who they will do business with, so should you. LB925 is that choice. The bill is simple. If a company has a Second Amendment discrimination policy, they have to tell you. That company now moves to the back of the line in contracting. If there is no reasonable competitive option, you can use the discriminatory company still. Please make asking that question part of how you do business. Then do business with companies that don't discriminate against the Second Amendment. Please move LB925 forward.

**BREWER:** All right. Thank you for your testimony. The handouts that came, can you break out? I see the first one is from the U.S. Senate with a list of senators. Evidently, they have signed on to something very similar to this.

**NEPHI COLE:** So what you have before you is you have 3 different documents. The first document-- or in no particular order. One document details Operation Chokepoint, acknowledges that that's from the Department of Justice. And it also gives the guidance to tell entities that they think that they should stop. The second document that you have from the Senate is from the pandemic era, and it is from-- it shows you that that discrimination continues, that it's-- it hasn't gone away. It's a-- it's a real thing and it's, again, suggesting that it should stop. And then the final document you have is a letter from a-- from one of the largest, most successful

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companies in the firearms industry, SIG SAUER, detailing how they have faced discrimination in financial services.

**BREWER:** All right. Thank you. Let's see real quick if we got questions for you. Questions? Senator Lowe.

**LOWE:** Just a quick one. I was writing when you first introduced yourself. Could you please reintroduce yourself again?

**NEPHI COLE:** It's my name is Nephi Cole. I'm the director of government relations and state affairs for NSFF, which is the National Shooting Sports Foundation, which is the firearms trade association of America.

**LOWE:** Thank you.

**BREWER:** If we take what has been happening with the firearms industry, if we look across the board at other businesses, are there-- is there anyone else that's affected the same way that they have the same type of targeting of, of a particular group in business, like, you know, the firearms industry only in a-- in a different capacity, something else would there be, you know, whatever? Is this unique or is this something that's commonly done targeting certain groups?

**NEPHI COLE:** So, Mr. Chairman, members of the committee, I guess there's-- that's, that's a difficult question to answer. It's fairly unique. I can say that. So the firearms industry really we're the test case where there are other entities that are beginning to see this and have seen it, entities including things like fossil fuel companies, including agriculture and others. What we can say is that we know that it happens and it's happening to us right now. We have the skidmarks so we can show that it's occurring. And it's in many cases, it's, it's part of a larger suite of policies known as ESG policies.

**BREWER:** Got it. All right. Let's see if there's any other questions. Questions? All right. Thank you for your testimony. Well, welcome back to the Government Committee.

**KEN SCHILZ:** Thank you, Chairman Brewer, and good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. Thank you for your service and all you do for the state. My name is Ken Schilz, spelled K-e-n S-c-h-i-l-z. I'm testifying before you today as a registered lobbyist for the National Shooting Sports Foundation. As a lifelong resident of Nebraska and an outdoor enthusiast myself, I would like to testify in favor of LB925. The bill, if passed into law, will be an important line in the sand for

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the protection of Nebraska's longtime culture of hunting and Second Amendment advocates. Growing up in western Nebraska, I grew up with firearms, whether it be for hunting, target shooting, or trap shooting, which I participated in for my adolescent and high school years, through my time in college, and even up until now. Nebraskans have always taken great pride in raising their families to respect and handle firearms safely as they participated in the shooting sports that are available to us here in Nebraska. To that end, it is important that Nebraska companies such as Hornady and Cabela's, along with many other entities and institutions that promote and provide firearms, ammunition, safety training and shooting sports opportunities, be treated fairly as they go about their businesses. Unfortunately, firearms-related companies have found it increasingly difficult to obtain financing, insurance, and other business-related services. Nebraska has affirmatively protected the rights to bear arms and the culture of hunting and fishing in its constitution. It is important that we continue to protect these interests in our state contracting. LB925 provides the transparency necessary to ensure that Nebraska does business with those who values align with ours when possible. With that, I would ask for your support of LB925 and that you vote it out of committee to the floor for debate by the full Legislature. Thank you again for this opportunity to testify. And there are representatives here from firearm-related companies that will come before you to testify today. And with that, I would be happy to try and answer any questions you may have.

**BREWER:** All right. Thank you, Ken. See if we have any questions. Questions? Senator Lowe.

**LOWE:** Do you know, are these industries-- are they aware that they're concerned-- that their concerns are discriminatory toward the, the industries?

**KEN SCHILZ:** You know, I, I can't speak for any of them. But I-- but I see, you know, in other-- in other things that we've-- that we've watched go down this path. We saw-- we saw some of this last year when Senator Slama was working on ESG stuff, environment, social, governance kind of policies. And we see that coming down the same kind of pipeline as what we're seeing here today. So I would say that, that some may be aware and some may-- some may be just doing what they have to do to, to, to keep their businesses open that they have as well. So it could be-- it could be some of both.

**LOWE:** Thank you.

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**BREWER:** All right. Additional questions for Ken? All right. Thank you for your testimony.

**KEN SCHILZ:** Thank you, sir, appreciate it.

**BREWER:** We're still on proponents to LB925. Steve, welcome to the Government Committee.

**STEVE HORNADY:** That's an interesting process. I've never seen this done before. My name is Steve Hornady, S-t-e-v-e H-o-r-n-a-d-y. Chairman Brewer, ladies and gentlemen of the committee, thank you for giving me this opportunity to testify. I'm president of Hornady Manufacturing located in Grand Island, the heart of central Nebraska. Thank you to Senator Aguilar for introducing this legislation to help protect members of the firearms and ammunition industry from financial discrimination. As Nephi described, discrimination of all kinds, not just financial, has been promoted and supported against my industry at the very highest levels of our government. Because of that, 5 other states have passed legislation similar to LB925, and there are several other states that are currently where it has been introduced. My company employs over 1,200 of your constituents in the heart of central Nebraska. And our employees come from 50 communities ranging from Ord to Blue Hill to Kearney to Fullerton, encompassing 15 counties in central Nebraska. Financial discrimination against my company impacts the employment of your constituents. Last year, during our insurance renewal process, our property carrier notified us that they would have to put limits on our coverage, due in part to other catastrophic weather-related challenges in the United States, and in part because we had begun to outgrow their capacity. So we were forced to go to the market for proposals to cover our growth. We felt if we went to market on our metal processing operations that do not handle any explosives that we would be more likely to receive competitive bids. Please understand, these factories are 6 miles away from our ammunition factory that handles explosives. We only requested property and casualty proposals on the metals manufacturing part of our business, which is the same as any other metal manufacturing business. We asked 24 carriers for quotes and we got zip; 24, no quote. Despite the fact that we have a stellar loss history, despite the fact that we are in a highly regulated industry where we have exceptionally high safety standards, despite the fact they had no exposure to explosives of any kind, 100% of the carriers refused to quote, with 20 of them specifically citing class of business as their reason. The class wasn't metal forming or machining either. When we inquired further, we were told that it was not the fact that Hornady manufactures

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ammunition, it was risk associated with inherent nonpolitical risks of the manufacture of products. If the amount of property had a lower value or did not include such specialized risk, very likely they would have quoted. What risk? There is no specialized risk beyond that of any standard metal manufacturing operation. When our broker marketed these properties, he was told specifically that ammunition manufacturing was a prohibited class of business. No matter what the exposure was, they could not offer terms. Hornady has been discriminated against by credit card processors that refused to process state of sales of ammunition or would only do so by adding a surcharge above our standard rates. We have also-- I think I have to shut up.

**BREWER:** Go ahead and finish. I'll let you finish.

**STEVE HORNADY:** We've also had software vendors terminate contracts or refuse to quote projects because of our class of business. A particular example is when we had found an ideal software company for a special challenge. That company's software-- that company's credit card partner learned of the relationship and forced that software company to withdraw their quote from doing business with us because we're in the ammunition industry. I can terminate this discussion with that or my letter at that time.

**BREWER:** All right. Well, we probably need to get a little better understanding of things before we let you go here because you're kind of our best source of information, especially on the industry. Now Hornady Manufacturing, a little history, kind of the Reader's Digest version. You go back to 19--

**STEVE HORNADY:** 1949. This is our 75th anniversary.

**BREWER:** And been in Grand Island the whole time. You gradually kind of worked into some of the adjoining communities with different facilities.

**STEVE HORNADY:** Correct. We now have a plant in Alda, which is 8 miles to the west, and then we acquired property on-- from the Cornhusker Army Ammunition Plant, where we built a new distribution and ammunition assembly operation. And we are now in manufacture of primers out there as well.

**BREWER:** And then you are now managing the range complex, too, there?



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**STEVE HORNADY:** We have just assumed the management of the Heartland Public Shooting Park range in Grand Island.

**BREWER:** And as far as to kind of give a snapshot of what happens out there, Grand Island puts on a number of events each year, everything from the, the zombie shoot to the trap shooting to is it the 4-H that has their national championships there?

**STEVE HORNADY:** 4-H comes and has a national championship, as well as this scholastic clay target championships in Grand-- in Doniphan.

**BREWER:** OK. Let's see if we don't have some questions. Questions for Steve? Questions? Yes, Senator Halloran.

**HALLORAN:** So in your estimation, I mean, it's it's it's, going, going to get to the point where it's just about impossible to do business. I mean, it's hard to do business without insurance.

**STEVE HORNADY:** Correct.

**HALLORAN:** It's hard to do business without updating your software.

**STEVE HORNADY:** Correct.

**HALLORAN:** Borrowing from time to time, I'm sure, like any good business you have to.

**STEVE HORNADY:** And credit card processing, that's one of the worst ones where our customer or our consumer wants to order or buy something. And he goes to the, the local gun store, to Cabela's or whatever and wants to use that credit card. If that processor has refused to do that, he doesn't have the correct credit card, he won't be able to buy that product. And we have seen several times where the merchant, the merchant commerce code, I think I have that wrong, has been used to shut off the sales of ammunition or firearms where the credit card refused to process that transaction. And there's now a movement that's been squelched to create a special merchant category for firearms and ammunition stores that would have allowed basically anyone who had access to the credit card data to be able to determine specifically who had purchased firearms. Now that one, that one got stopped further up the line but it has come back again. And there is a relatively large bank in the United States that is promulgating that position.

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**HALLORAN:** So is it fair to say, in your opinion, that this seems to be rather obvious to most people, but your opinion is important, does it seem to be orchestrated? In other words, I don't want to be a conspiracy theory theorist, but having said that, I mean, there is a word such as conspiracy does exist in the dictionary. It's when 2 or more people conspire to do something. But it seems like there are so few exceptions for you to turn to for some of the needs that you have as a business. That sounds like some people are kind of orchestrating together to work against you. And I don't want to put words in your mouth, but what's your opinion on that?

**STEVE HORNADY:** I agree.

**HALLORAN:** OK.

**STEVE HORNADY:** The, the, the difficulty, of course, is that a number of these companies and financial institutions operate at a level far beyond me. The president or the chairman of the board of the Bank of America or Wells Fargo or Liberty Biberty Insurance, who happens to be one of my favorite targets right now-- poor choice of words perhaps-- that, you know, these are the guys that get together in cocktail parties. These are the guys that share boards, company boards or corporate boards, back and forth. And there's a-- there's no question that we see a woke policy that moves through here that chooses to discriminate against a number of industries. Nephi mentioned oil and gas also, some agricultural areas, certainly the firearms and ammunition industry. And there are-- there are others that are just we're not popular with the-- with the press. We're not popular with the social media. And once they get fired up and they get some activists, a number of these companies just say, you know what? We'll move on. Liberty Biberty is the one that sent us the letter. They canceled our insurance. We asked why. They said there was a change in policy. We asked, OK, what was the change in policy? And we essentially got a [INAUDIBLE] letter that said this was-- this was a decision made in our-- at our corporate level, and we consider it confidential, proprietary and no further discussion. That's where they shut it off. Do I think it happened at their boardroom? Sure I do. I think somebody said, let's just shut them off. This isn't-- this is bad policy. We're prepared to take our chances if, if my business is a poor risk for-- because the building is falling down or I'm in a flood zone, any one of a number of reasons that you would use in normal economic decisions to, to ensure a plant or a business or whatever. But to say, yeah, we don't-- it's because of the industry that you're in we're not going to insure you.

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**BREWER:** Yes, Senator Lowe.

**LOWE:** Thank you. Mr. Hornady, thank you for being here to testify today. And this comes from the best of the tri-city area in central Nebraska.

**STEVE HORNADY:** I do have the other part of the best of central-- tri-city.

**LOWE:** The-- some of your customers, they're rely or reputable customers, are they not?

**STEVE HORNADY:** Yes.

**LOWE:** Many government agencies?

**STEVE HORNADY:** Yes.

**LOWE:** And you've taken as many precautions as you can to keep your employees, your building, your facility, everything safe.

**STEVE HORNADY:** Yes.

**LOWE:** So you're not an outlier out there.

**STEVE HORNADY:** No.

**LOWE:** The-- are most all the firearms and ammunition companies at this point in time going through similar situations like this?

**STEVE HORNADY:** I can't speak for, for most. A number of the larger ones, for instance, Winchester or Federal are very large multibillion dollar corporations who are in a position to certainly to self-insure themselves for their properties and some of their liability issues. And a tremendous amount of, of what we're doing here or what we're trying to do here is not so much to protect me, but to protect the other people that are smaller businesses that are trying to get started, the dealer or the retailer, the wholesalers that just want to have an opportunity to create a small business and, and come up. And they get shut off by credit card processor first, and they have to start scrambling around to find someone who will let them handle that or their bank that says, you know, we just don't think we want to be supporting a retailer that does business in firearms and ammunition, and they have to scramble to find that. And they don't have those resources. They have to have the support of a bank. They have to have

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the support of an insurance company. They have to be covered. And, and that's why we're here. It's for those people.

**BREWER:** Yes, Senator Lowe.

**LOWE:** I know we've just come through a period of time where it's been hard to find ammunition at the stores and everything. If American companies don't make that ammunition, where does it come from?

**STEVE HORNADY:** Some from Europe and that's it. There isn't any other place. It-- it can't come-- it won't come from Russia, certainly now. Can't come from China. And you wouldn't want it if it could. It-- America is the largest manufacturer of the variety of products that we have today.

**BREWER:** Well, and I guess some-- a point I'd like to make here with that is that you have businesses that, that make money and you have businesses that make money, and they contribute to the community. And that's something I've always been very impressed with, with Hornady. Because whether it's the youth programs, whether it be what you're doing with 4-H, and you guys impact from there all the way to the point where your 300 PRC round was what we were using in Syria with the Army. Grand Island without Hornady is a much lesser place. Hall County without Hornady is a much lesser place. Nebraska without Hornady is a much lesser place. So I guess what we want to do is make sure that we don't miss an opportunity to protect the companies that do the good things here. So for what you do for the youth, what you do for the communities, thank you. Let me see if we have any more questions. All right. Thank you, Steve.

**STEVE HORNADY:** Thank you very much for the opportunity.

**BREWER:** OK. We're on proponents to LB925. Welcome to the Government Committee.

**JOHN HEASTON:** Thank you for having me, Chairman Brewer and members of the committee. My name is John Heaston, J-o-h-n H-e-a-s-t-o-n, and I am the executive director of the Nebraska Sportsmen's Foundation. And before I begin, I would like you to know I am from Elm Creek, which is the one true liver of the tri-cities area. And the tri-cities being Elm Creek, Odessa and Funk, with Hastings, Grand Island and Kearney being nice little suburbs. That aside, let me take a moment to ask you to consider supporting LB925 and moving it to the floor for a general vote. Representing the Nebraska Sportsmen's Foundation and its

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membership, we know that Nebraska has long been a great place to hunt, trap, fish and, and, and over those years, as passions have fueled a lot of local industries in the firearms and firearms accessories industry in our state and beyond. And these industries bring countless dollars to our state. The men and women who manufacture, sell and/or donate these firearms and related products provide a critical product and service to our outdoor community. These companies have become job creators in their communities and strong supporters of local charities. They are also great ambassadors for our state as their products find new markets beyond our borders. Issues relating to firearms have become controversial in our culture and political worlds. And with the ease that information can spread in our society, firearm affiliated groups and industries can become the focus of discriminatory-- discriminatory campaigns that can affect more than just the company or the group targeted. Our First Amendment rights are guaranteed of free speech, and that right is sacred. But targeting specific companies or groups based on the premise of guilt by association is an unfair use of those First Amendment rights. Asking those groups to be identified will help government, industry, and the general public to know who they are interacting with and if continuing to do so serves the greater good. As the firearm and firearm-related industries manufacture and grow and prosper in our state, we should do all that we can to recognize the importance of their efforts and give them a way to distinguish themselves as business leaders, helping to strengthen and diversify Nebraska's economy by providing high-quality tools and accessories to the citizens of our state to all who should come here and hunt, fish and trap or shooting sports. Thank you for your consideration. I would answer any questions if you have them.

**BREWER:** All right. Thank you, John. Let's see if we got any questions for you. Questions? Questions? All right.

**JOHN HEASTON:** Thank you for having me.

**CONRAD:** Thank you.

**BREWER:** OK. Next proponents to LB925. Come on up. Welcome to the Government Committee.

**RANDY BENDORF:** It's Randy Bendorf, B as in boy-e-n-d-o-r-f. Been following this for quite a while, probably last 5, 6 years, especially looking at the merchant code situation. Have some friends high up at the local bank here in town, which I used to be a VP of their investment department, but just heard that rumbling that they were

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jumping on the bandwagon to have some discriminatory practices against firearms, ammunition industries. And watching that merchant code who I know Mr. Hornady said it's been staved off for a little while, but they've, they've definitely implemented that and are definitely tracking it. You know, we saw this with regulatory on lead ammunition. Now we've seen it, gun grabbers are going after 556 ammunition that came out of the Army's Lake City plant, which always sold their excess inventory saying that they're all involved in mass shootings. So they had to shut that civilian access down. Any way they can circumvent the-- our civil rights, Second Amendment, state constitution, federal constitution, they're going after it. And this is just another avenue for heavy political practices to come after the law-abiding citizen. And I have been following it for quite a while, and it definitely exists. It's good to hear Mr. Hornady point it out. And just hearing rumblings from my friends-- a very good friend of mine works over in Belgium at NATO, and that's one of their objectives is to circumvent our firearms industry by removing parts and/or ammunition or both, because they haven't been successful at anything else. So anyways, just, definitely in support of it. Thank you.

**BREWER:** All right. When you brought up the issue of Lake City.

**RANDY BENDORF:** Yeah.

**BREWER:** So last I heard, the, the plan for Lake City is that they will close Lake City, depending on whether or not they can shift the remaining production to another location. Is that-- just so everyone knows, Lake City Army Ammunition Plant at one time was one of the bigger producers of small arms ammunition that's being shifted some. And that's where the excess ammunition you said was, was originally being sold. Now they're, they're retracting that to not do that in the future because of it being associated with certain events.

**RANDY BENDORF:** Yeah. And there's no statistic support of it. Like, Dr. John Lott, who's probably the best authority that straight stats that 556 round, which is obviously the most common round and that's why they're after it. But they said they've traced those rounds to the Lake City plant, which there's, there's no substantiation of any of that. But as far as I know, that's only for military manufacturing now. And part of their excuse, too, was, well, we need this ammunition in Ukraine. But again, it was just the discriminatory practices to circumvent civilians' access for ammunition.

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**BREWER:** Before we let you go, let's see if we have any questions for you. Questions for Randy? All right. Thank you for your testimony.

**RANDY BENDORF:** Thanks, Senator.

**BREWER:** OK. We're still looking at proponents to LB925. Welcome to the Government Committee.

**JOHN ROSS:** Chairman, thank you. Chairman Brewer and senators of the committee, my name is John Ross, J-o-h-n R-o-s-s. Senator Aguilar, thank you for introducing this bill. I'm a Vietnam veteran and served proudly to protect the constitution of this, this country and our state, a member of the NRA and a hunter education instructor for Game and Parks. There are people that want to chip away at the Second Amendment right any way they can. They have failed most of the time, and there are attempts to take away the right to own and use firearms in a lawful manner in Nebraska if you are not a prohibited person. This was proven last year when Senator Brewer was able to pass LB77. Thank you, Senator Brewer. But two communities have passed laws that restrict what was intended in LB77. Before LB77 was pa-- became law, 91 out of 93 counties in the state of Nebraska passed a resolution to protect the Second Amendment. This is very impressive to me, and I think it should be a strong statement to you. People in this state do not want the Second Amendment trampled on, so they weren't able to take away the constitutional right to keep and bear arms. [INAUDIBLE] put businesses that sell firearms, ammunition, firearm parts, accessories, etcetera out of business. They also included any associations that represent these businesses. We need to have fair laws in place to protect all the lawful businesses in the state. We do not need to lose any of them and we should be attractive to no one, especially ones that are out of state to come to our state. So I'm asking you to advance Senator Aguilar's bill to keep the playing field level for all businesses and not allow a few that don't like firearms to hinder these businesses. And with that, I will conclude.

**BREWER:** All right. Thank you. Let's see if we got any questions for you, John. Questions? Questions? All right. Thank you. All right. We're still on LB925 proponents. Proponents? All right. We will shift to opponents to LB925. Welcome to the Government Committee.

**ROBERT M. BELL:** Thank you, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Robert M. Bell, last name is spelled B-e-l-l. I'm the executive director and registered lobbyist for the Nebraska Insurance Federation, and I am

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appearing today in opposition to LB925. The Nebraska Insurance Federation is a state trade association of insurance companies in Nebraska. Currently, the confederation consists of 48 member companies and 9 associate members. Member companies write all lines of insurance. One of the goals of the Federation is to promote the concepts and importance of insurance products to the public. But not only do Nebraska insurers provide financial protections to Nebraskans, but insurance companies also have a significant impact on the Nebraska economy. According to a draft study recently completed by the University of Nebraska Lincoln Bureau of Business Research, the insurance industry had a \$25.77 billion impact on the Nebraska economy in 2022, including providing over 32,000 jobs to Nebraskans. The average wage of a Nebraskan working in the insurance industry is nearly \$92,000 annually. You've already heard what LB925 does. Our concerns, well, first, it's on the government. So much of the government of Nebraska and political subdivisions of the state are either self-insured or they pool their risk in a variety of intergovernmental risk pools, which are quasi public entities that compete against private insurers. Many of these entities have reinsurance agreements with private insurers or other syndicates that provide coverage in cases of catastrophic loss. The insurance concerns with LB925 are the-- that, the provisions could effectively shrink the pool of available insurers and reinsurers to the state and political subdivisions, not because insurers discriminate against the firearms industry, but because financial decisions are oftentimes confused with discrimination. Many insurers will write insurance for any legitimate business. Others will limit the scope of their business to certain types of businesses, such as small businesses versus large businesses. Certain mutual insurers only write businesses that meet their mission of their members, such as churches. Other insurers will only write specialty business that cannot secure insurance in the immediate market. These insurers are called surplus line insurers. Many insurers also limit the amount of coverage that they will provide to a particular business. Most manufacturing in Nebraska, in my understanding, exists in the surplus lines or nonadmitted market versus the admitted market. So it's kind of like the ultimate free market versus the more highly regulated insurance market. The property and casualty insurance market has been very difficult lately due to numerous factors, including catastrophic weather claims. In November of 2023, so just in November, the insured loss due to severe convection storms topped \$15 billion annually for the first time in the United States. And this has led to a trend of-- that has caused reinsurers to rethink their approach to reinsurance and deploying of



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capital. I have a little bit more to say, but I see I'm out of time. So for those reasons, we oppose.

**BREWER:** OK.

**ROBERT M. BELL:** Yeah.

**BREWER:** All right. Let's, let's back up.

**ROBERT M. BELL:** Sure.

**BREWER:** I appreciate the \$92,000 you make each and all that kind of stuff, the \$50 billion. But what I'm trying to understand is if we just look at a free market economy and Steve Hornady says, I'd like to have some bids on my insurance--

**ROBERT M. BELL:** Right.

**BREWER:** --if you're in one of those categories where you don't really deal with that, then you don't put a bid in. But what we're trying to do is figure out why would you, as a group, as a blanket study, say, we don't like this bill because we want to be able to discriminate who we do business with? Help, help me fill out the sentence here.

**ROBERT M. BELL:** Well, no. So I think you got to look at how the bill works. And so the bill works by you have to file a piece of paper with a state agency, the Department of Administrative Services, state contract or a political subdivision if it's the local government and it says we do not discriminate. And then you look at other provisions of this proposed law and it says, OK, well, we don't have a policy, but we think in practice you do discriminate. And so somebody could complain to that political subdivision or state agency and say, well, I know they don't have a policy and the insurer is going to write that they don't have that policy. In fact, some insurers are in this business, right? They're, I mean, maybe not necessarily the firearm business. There's probably some that are. But certainly in the oil and gas industry, many large insurers are involved in those types of industries. And then you got complaints against them. And then are you in violation of, of the statute? And you know, that-- that's really our concern. It's not so much that we're afraid to put a piece of paper across the, the desk and say, hey, we're not discriminating. It's that we don't have a policy of discrimination. It's, it's these-- this perceived notion that financial considerations are somehow discriminatory against the firearms industry when many, many

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businesses in the state of Nebraska are having a difficult time securing commercial property insurance right now.

**BREWER:** All right. Let's see if we got questions. Senator Halloran.

**HALLORAN:** Thank you, Mr. Chairman. I find it kind of odd that you suggested that the question would be to a company, to an insurer, do you have a discriminatory policy?

**ROBERT M. BELL:** Right. That's what the, the bill requires.

**HALLORAN:** I understand that.

**ROBERT M. BELL:** Yeah.

**HALLORAN:** But it's a yes or no question.

**ROBERT M. BELL:** Right.

**HALLORAN:** You do or you don't [INAUDIBLE].

**ROBERT M. BELL:** And we would say no.

**HALLORAN:** Right.

**ROBERT M. BELL:** Unless, you know, unless a company did. Right?

**HALLORAN:** You say no unless you do.

**ROBERT M. BELL:** Yeah. Right. But most companies are going to say no. But it's not just do you have a policy or there's also the practice. Right? So like, you could slide that paper over and say no, we do not. And then somebody could complain to whether or not that's the state or political subdivisions like, oh yeah, but they, you know, they denied all of these, you know.

**HALLORAN:** But I think that's an important point.

**ROBERT M. BELL:** Right.

**HALLORAN:** So if you have-- if you say, no, we do not have a discriminatory-- discriminatory policy and then someone challenges that.

**ROBERT M. BELL:** Um-hum.

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**HALLORAN:** Well, if you don't have a discriminatory policy, you got no problem.

**ROBERT M. BELL:** Well, we have an expensive problem probably in a court of law.

**HALLORAN:** I'm comfortable that your industry could afford a few attorneys [INAUDIBLE].

**ROBERT M. BELL:** And we-- oh, I think I'm gonna go testify on that later today.

**HALLORAN:** But, but I'm sure you have quite a few on--

**ROBERT M. BELL:** Yes, we do.

**HALLORAN:** --on call all the time. Right? So, you know, would it cost you more or not, I don't know. But if you don't-- it won't cost much more if you clearly aren't discriminating.

**ROBERT M. BELL:** Yeah. I mean, I understand your point, Senator Halloran. We certainly do employ a lot of attorneys in our industry. And, and, you know, we would rather not have that risk. We'd rather just have the market take care of itself.

**HALLORAN:** But you're in the business of insuring against risk.

**ROBERT M. BELL:** Correct.

**HALLORAN:** I know you can't insure against that risk.

**ROBERT M. BELL:** Um-hum.

**HALLORAN:** But you can insure against it by just not discriminating.

**ROBERT M. BELL:** And we don't believe that we do.

**HALLORAN:** OK. Well, then you don't-- you would probably wouldn't have an issue then.

**ROBERT M. BELL:** I think other people think that we do and they would challenge that. That's, that's the heart of the law.

**HALLORAN:** But the world is full of those kind of--

**ROBERT M. BELL:** That is true.

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**HALLORAN:** --challenges. So I appreciate it.

**ROBERT M. BELL:** Correct.

**HALLORAN:** Thank you.

**BREWER:** All right. Senator--

**CONRAD:** Thank you. Thank you so much, Chair.

**BREWER:** --Conrad.

**CONRAD:** And, and thank you for being here, Mr. Bell. And I think maybe just to follow up on my friend Senator Halloran's question, because I feel like maybe we're conflating policy and legal issues maybe in this discussion a little bit. And maybe it would be helpful for the committee and other stakeholders just to, to be more precise, as we work through the, the issues here and without, you know, taking a stance on either side of this. And I appreciate and understand what, what Senator Aguilar is trying to do--

**ROBERT M. BELL:** Of course.

**CONRAD:** --on behalf of his constituents, who we all recognize have an important place in our economy in Nebraska.

**ROBERT M. BELL:** They do.

**CONRAD:** But could you maybe just take a moment, and I know it's a big question to unpack, but if you could maybe help the committee understand the difference between discrimination and risk, because I think that there's-- maybe we're talking past each other a little bit in this conversation, and maybe that would help to clarify where we're at--

**ROBERT M. BELL:** Thank you. Thank you very much.

**CONRAD:** --from your perspective.

**ROBERT M. BELL:** And let me take, take a moment.

**CONRAD:** OK.

**ROBERT M. BELL:** So, and I think Mr. Hornady, when he was testifying--

**CONRAD:** Yes.

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**ROBERT M. BELL:** --talked about capacity and weather on the insurer that they had.

**CONRAD:** OK. Yeah.

**ROBERT M. BELL:** And that's, that's an issue right now for many very large businesses in Nebraska. So if you have a lot of risk, so tens of millions of dollars worth of property, which I'm sure they probably do, there are insurers that are unwilling to write over certain amounts because of their own financial capacity and the duty that they have to their other clients, as well. Doesn't matter what necessarily may be going on in, in, in that property. But the amount of property within that, that's just risk and how much-- how much capital does an insurance company have. And so if, if their broker went out to a company and said, hey, would you be willing to write that? And they're like, well, we're only going to rate risk up to \$50 million as an example. That, that-- I'm sure their businesses, properties are worth well more than that. Right? So-- and so that would be for us would be a financial decision. Right? And if numerous companies said that, it could look like a conspiracy or some antitrust going on, which--

**CONRAD:** Yeah.

**ROBERT M. BELL:** --you know, is not necessarily the case. It's just they're unwilling to take on that financial risk so.

**CONRAD:** OK. That-- that's helpful. Thank you.

**ROBERT M. BELL:** You're welcome.

**BREWER:** OK. Additional questions? Senator Lowe.

**LOWE:** Thank you. Before I ask the question, could you briefly finish your introductory because you said you had a little bit more.

[INAUDIBLE]

**ROBERT M. BELL:** I can if, if you want, but-- and I appreciate that. Thank you very much, Senator Lowe. And, you know, what I was going to say it's just a decision, not unlike Senator Conrad asked me, you know what is financial-- what is a financial decision versus, you know, quote unquote, discrimination? That is for us, weather has been the issue, severe convection storms have been an issue in our state. No property and casualty insurer in our state has made money in the last 4 to 5 years. And I don't expect anybody to cry any tears for our companies. They're doing well. They're still writing business, but

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they are lowering their limits. They are increasing their premiums because they have paid more in, in claims. So I think-- I had a company tell me, and then I'll, I'll finish because I-- I'm just kind of babbling on here. Usually in early November is when you don't see any more losses in-- weather-related losses in Nebraska because it changes. December 15 of 2021, 2021 was ,was not the greatest year to begin with for property casualty companies. And then a gigantic storm hit eastern Nebraska that I think went from South Dakota to Kansas, swept across the middle of the United States and cost \$1.5 billion worth of insured losses across the Midwest. Nebraska was certainly part of that number of tornadoes and other things. These things lead to higher prices, and it makes it more difficult, the more risk that you have to secure the insurance. I went way on beyond a minute and a half. My apologies.

**BREWER:** Senator Lowe.

**LOWE:** And isn't that part of doing business?

**ROBERT M. BELL:** Yeah.

**LOWE:** With your industry--

**ROBERT M. BELL:** Right.

**LOWE:** --there is risk.

**ROBERT M. BELL:** There is.

**LOWE:** And that's why these companies got into that business was--

**ROBERT M. BELL:** Absolutely.

**LOWE:** --for risk.

**ROBERT M. BELL:** Right.

**LOWE:** Because the premiums that they charged their customers should help overcome some of that risk.

**ROBERT M. BELL:** Right. And then they, they change the following year when they rewrite their policies, they increase the premiums, they lower the limit. They look at their capacity and say, OK, if this happened again, do we have the financial wherewithal to pull that off? And, you know, and unfortunately, a great employer like Hornady in

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Grand Island has been caught in the middle of that, where they have so much risk and so much property because they're successful. Right? That they're, they're unable to get the amount of coverage that they would like for the prices that they would like. And so they may have to self-insure or do something like that, not because they're an ammunition manufacturing plant, but because of the risk involved.

**LOWE:** But I would think that the premiums that the Hornady Manufacturing would pay could offset some of those risks.

**ROBERT M. BELL:** Sure. Yeah, if they're willing to pay those premiums. So again we're talking about almost kind of 2 different things. We have the admitted market of insurance which is highly regulated by the state of Nebraska. Forms, rating systems, everything like that has to be filed with the Department of Insurance. Then we have surplus lines, insurance's nonadmitted market. It's kind of like the ultimate free market of insurance. The insurer fails for whatever reason. There's no protections. You don't have to file all your forms and rating systems. This allows a business and the insurance company to sit down and negotiate, whatever that is. That's more expensive at the end of the day. And what I'm hearing from my insurers on very large amounts of risk, over \$50 million, that that's where they want-- that's where they want to sit down with the business and, and write that out in the nonadmitted market so.

**LOWE:** Where does Mr. Hornady go then to get help to find insurance?

**ROBERT M. BELL:** He goes to the nonadmitted market which I'm sure he's looked in so.

**BREWER:** OK. Other questions? But the point I think you made, though, that I thought did have some validity is that when he talked about his metals part of that. So if you have a factory and you're spitting out widgets, you're good to go. But if you have a factory and you're spitting out, separate from your gunpowder and all the rest, you're--

**ROBERT M. BELL:** Right.

**BREWER:** --spitting out metal pieces, shell casings, dyes, whatever, but it's uninsurable because of what it is, not because of the fact of stamping out metal.

**ROBERT M. BELL:** It's, it's not-- it may be insurable. It's just how much premium do you want to pay on it? All right. And yeah. So it doesn't have the explosive which, again, I think we can all agree if

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you're-- if you're dealing with explosives that's hazardous, especially hazardous.

**BREWER:** It's been my experience, yeah. [LAUGHTER]

**ROBERT M. BELL:** Yeah. And if you're just doing metal, let's say-- let's say all of their "metally" you know, metal shops, let's, let's say that's \$75 million worth of property and all of the equipment that's inside the building, all of that. They still may not be able to grab insurance on the admitted market for that, just because the amount of property and the amount of risk is so high so.

**BREWER:** Well, you have got a lot of questions. You gave us a lot of answers. So thank you for your testimony.

**ROBERT M. BELL:** I appreciate it. You're welcome. Thank you very much.

**BREWER:** OK. Oh, boy. We're gonna have some fun now. Bob, welcome to the Government Committee.

**ROBERT J. HALLSTROM:** That may be in the eye of the beholder. Chairman Brewer, members of the committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m, here before you today on behalf of the Nebraska Bankers Association in opposition to LB925. I want to begin by noting that our opposition to LB925 is in no way a statement against the firearms industry or Hornady, but rather opposition to the intervention of government into the free market system. We believe LB925 represents a solution in search of a problem. We have in the Banking Committee last session consistently opposed anti-ESG legislation. Senator Aguilar sat through those hearings and heard Senator Jacobson ask each and every individual witness, when there were questions about potential discrimination or not doing business with fossil fuels companies, firearms industry and the whole laundry list of things. And each and every witness, without exception, said banks are not a problem in Nebraska. So maybe we have to put something on the books to be preemptive. We don't think so. Legislation designed to make a political statement should not be utilized to disrupt the normal operation of the free market system or to place local municipalities at great risk of incurring significant cost in issuing bonds, which has been the result in the few states in which firearms industry nondiscrimination or fossil fuels nondiscrimination legislation has been enacted. In my testimony, I've got a reference to a Wharton School of Business study that reflected that adverse impacts in the bond market in Texas cost Texas \$532 million. Someone from the



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Shooting Sports Foundation suggested that that was a one-time hit. Whether it's a one-time hit or an annual hit, and we think it's an annual hit, that's, that's not chump change. In Oklahoma, which had a fossil fuels nondiscrimination law, the city of Stillwater had to refinance a \$13.5 million project because a particular institution had been debanked, costing it \$1.2 million. We think our customers should prosper and succeed, including firearms businesses. But banks don't want government telling them who they should and shouldn't do business with. Cornerstone in the free market system, particularly with regard to the banking industry, is we believe that banks should be free to lend to, invest in and generally do business with any entity or activity that is legal and conversely, to choose not to as long as they're not doing it on a discriminatory basis. In my testimony, I have mentioned the certification. Senator Halloran asked the question: If you're not discriminating, why don't you just file the paper? That would be an easy out. But we found in the state of Texas, for example, the attorney general on top of the certification of compliance is required standing letters of nondiscrimination. Some banks have filed certificates of, of satisfaction or compliance, and they have been told-- they have been challenged by the National Sports Foundation-- Shooting Sports Foundation and it's had an adverse impact on the bond market there. I see my time is up. I had some more things to say, but I'll address any questions that the committee might have.

**BREWER:** Well, we kind of need to probably finish hearing you out here, because what you're saying is tracking with what we need to know so.

**ROBERT J. HALLSTROM:** I appreciate that, Senator. I think the, the other things that-- one of the things that I think the banking industry in particular has a condundrum-- conundrum with is where does it start and stop? We've seen the anti-ESG bills last session that came at us and said whether it's fossil fuels, firearms, you can look at LB730 and see the laundry list of things we're not supposed to do. What if something comes from the other end of the political spectrum? What if a bill said thou shalt not discriminate against green energy firms? I suppose we flip the tables, we turn the tables in terms of what different people think is right or wrong. Some of the issues that we look at, and one of the interesting things in this bill, different than Texas, is that it provides an exception for investment services. Well, what does that mean at the end of the day? What it means in a nutshell is we'll overlook the fact that we think some people that are working with us in the investment services arena are arguably or allegedly discriminating against someone. What does that mean specifically to Nebraska? You may have seen the Nebraska Investment

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Council recently has taken positive action because there was quite a bit of pushback because they're using a company named BlackRock. I'm not here to throw BlackRock under the bus, but it's, it's been public. What the Investment Council has done is they have reduced the investment-- the investments over which BlackRock has control by 50% and they've outsourced their proxy voting. I think those are both positive things in terms of the entire overall anti-ESG arena. But what this bill says is notwithstanding the fact that we think or people have alleged that BlackRock is engaging in discriminatory activity, in fact, they were the impetus probably for the anti-ESG legislative approach. We're going to continue to do business with them because this bill exempts those investment services from its coverage. In closing, I think it's, it's significant. The Arizona legislature adopted legislation similar to LB925, which was vetoed by Governor Hobbs in Arizona. Her veto message I think is very telling: This bill is unnecessary and if enacted could result in banks leaving Arizona's market. This would limit competition and increase cost for local governments, which ultimately fall on taxpayers. I once again urge the legislature to focus on providing real solutions to the real challenges faced by our state. We believe that analysis would apply equally to the provisions of LB925. Just one other issue that I'd address, Senator Brewer, and thank you for your consideration and time here. Witnesses talked about Operation Chokepoint. Operation Chokepoint is before us. We didn't like what the regulators were doing as a banking industry and that is now behind us. They've talked about merchant category codes, a completely different issue. The banking industry does not like the fact that, that some international organization is looking at merchant category codes for firearms purchases so we're not necessarily misaligned on that particular issue. And one final item with regard to the, the risk versus discrimination aspect that Senator Conrad raised and Senator Lowe in his question. We found out this summer that Nationwide is essentially getting out of the property and casualty market in Nebraska. What that told me, if you're familiar with the commercial, is Nationwide is not on our side. But I don't think anybody has alleged that, that Nationwide is discriminating against Nebraska businesses because they've chosen to get out of the market in Nebraska. Similarly, in Florida, condominiums-- condominium collapsed. Hard to find condominium insurance. They have sinkholes in Florida, hard to find certain types of insurance. I think it's an issue of risk. Cost of the premiums may be high. Some, some companies self-insure. I don't want to get into the insurance market, but I'll stop there and appreciate your consideration and giving me a few extra minutes, Senator.

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**BREWER:** All right. See if we have any questions. Questions for Bob? Senator Lowe.

**LOWE:** Thanks, Chairman. Thanks, Bob, for being here--

**ROBERT J. HALLSTROM:** Thank you.

**LOWE:** --and for finishing your testimony. The-- it was brought up that the credit cards early in, in our testimonies that they're not allowing them to purchase through these credit cards. Those credit cards go through a banking system. What can be done about that?

**ROBERT J. HALLSTROM:** Senator, I'd have to look into more on that. I, you know, I assume Hornady probably has some affiliation with the bank for its own bank-issued credit card, and those probably work just fine for purchases. I'd certainly be willing to look more into whether or not there's a real issue with regard to other credit card issuers. And obviously, I, I-- banks do issue credit cards. But we're looking at the banks we represent in terms of deposit relationships, lending relationships with Hornady and other types of firearms industry related companies. At a meeting we had this summer, the primary focus, which is why we kind of got a lead that there was going to be a boycott or a blacklisting type of bill that was going to be introduced. The representative from Hornady at that meeting was very complimentary of its banking relationship with a, I assume, a Nebraska Bank. So I assumed this was about insurance, but we're not here to throw insurance under the bus. Mr. Bell has explained why there's a difference between risk and discrimination. And whether it's the banking industry or the insurance industry, we stand by the merits that we don't think it's an arena for the government to, to intervene or inject-- interject itself.

**LOWE:** Well, let's say it's not a Nebraska bank. Let's say it's a national bank that has a credit card. And I go in to try to buy something, and I'm not allowed to buy it because it's ammunition. Do you have anything on that?

**ROBERT J. HALLSTROM:** Well, Senator, again, I don't know that much about the credit card aspect of, of Hornady's issues that they've raised. You know, I think what it boils down to more fundamentally, and Mr. Bell touched on this very appropriately, is when you look at how the Texas law is implemented, how the Nebraska law is drafted, you can profess till the cows come home that you're not discriminating, and you're still going to be subject to having to prove up as to

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whether or not you've got a discriminatory policy or practice. I might add, too, one of the things that struck me as odd. I read the statement of intent on this bill. I heard Senator Aguilar explain how the bill's supposed to work and the first witness from the Shooting Sports Foundation all talked about this notion that all the bank has to do is tell us what their pre--what their policy is. That's not what this bill does. This bill says policy, practice, etcetera, etcetera. And you have to agree to sign on to that in a contract with the state and still be subject to, as we've seen in Texas, secondary challenges, even after you've suggested and you believe in your heart of hearts that you are not, in fact, discriminating against this particular industry.

**BREWER:** Thank you. All right. Any other questions for Bob? Well, since the last few pheasant hunts I've had have been all bankers, I've been out with so I can't accuse you guys of not being pro gun or shells I guess.

**ROBERT J. HALLSTROM:** Well, other than the fact, Senator, as I confided in you my 2 law partners went with you, and they did not invite me because they figured you--

**BREWER:** Oh, that's right. We did forget you.

**ROBERT J. HALLSTROM:** --had enough risk-- had enough risk outside of me carrying a gun around. So I-- I'm glad you didn't get put into that so.

**BREWER:** Thank you for your testimony.

**ROBERT J. HALLSTROM:** Thank you.

**BREWER:** OK. We are on opponents to LB925. All right. Neutral on LB925. All right. We'll invite Senator Aguilar to close on LB925. While he's doing that, I'll go over our letters. We had 11 proponents, 7 opponents, 0 in the neutral. With that, we will welcome Ray back to close on LB925.

**AGUILAR:** Thank you, Senator Brewer. Members of the committee, like I said at the start, it's a simple bill. It's about fairness and discrimination. And I would contend that if you're an insurance company or you're a financial institution and you're not practicing discriminatory procedures, you really have nothing to worry about. This bill doesn't affect it. It's only the bad players. And it's a pretty sad state of affairs when a company the size of Hornady, one of

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the finest companies and largest employers in Grand Island, gets treated in this manner. It's not right. I encourage you to vote green and put this on the floor of the Legislature. Thank you.

**BREWER:** All right. See if we have any questions for you before we let you go. Questions for Senator Aguilar? All right. Thank you, Ray. All right. We're going to have a quick reset here, set up for the next bill, and invite Senator Erdman up. Well, I worked hard to get through the first one in less than an hour for you, but we went a little over.

**ERDMAN:** No problem.

**BREWER:** Just got engrossed in the discussion and I thought it was a good discussion, so we let them go a little longer than I intended. Let's see, we are now on LB1169, and we will invite Senator Erdman to enlighten us on LB1169.

**ERDMAN:** Thank you, Colonel Brewer. Appreciate being here. Thank you, committee. My name is Steve Erdman. I represent District 47. That's spelled S-t-e-v-e E-r-d-m-a-n. And I'm here today to present to you a bill about History Nebraska historical society to convert that to a code agency. I got involved with History Nebraska, historical Nebraska, whatever you want to call it, several years ago before I became a county commissioner. We have several landmarks in my district, Chimney Rock being one, Court and Jailhouse Rock [SIC] being the other one. And so we have had issues that dealt with historical, historical Nebraska and History Nebraska over the years. And it came to my attention as some of these things needed attention that was difficult for us to work with that society. And as time grew on and as we began to understand the complexity of that agency, we begin to see some of the shortfalls in management in that agency as well. That agency was established back in 19-- 1994, in July of '94. And I think when the agency was founded, I think their mission was to record the history and not write history, which is different than it is today. And so as I began to analyze what we need to do to try to bring some commonsense approach to management for this agency, it was quite obvious that the best way to do that was make them a code agency. And so, with the help of some others, we have developed this plan to make History Nebraska a code agency, where the Governor will appoint the director and the board members will be advisors to that director. So as I said, it was started in 1994. There are 9 members on the-- on the board that are elected by the historical or History Nebraska members; 3 are appointed by the Governor. That's the current situation the way it's set up. The society members appoint their own superintendent or

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director under the current statutes. Society members are free to accept gifts of money of real estate or other issues for History Nebraska. That seems to be part of the problem as well. The history of Nebraska-- History Nebraska is that there has been corruption there for several years. Several years ago the director that was in place, Tony Schmitz, stole \$73,000 from the Historical Society. And just recently and more-- and more common to your understanding is Trevor Jones, who was the director, and he was charged with transferring \$296,000-- \$269,000 to another fund that he had set up. So there's nothing new about mismanagement of funds at his-- at the Historical Society. So therefore, we need oversight by the State Auditor as well as the State Treasurer to make sure that these funds are taken care of in an appropriate manner. So the solution, I believe, is LB1169. It makes the Nebraska Historical Society a code agency created and, and creating a director who is accountable to the Governor and the Legislature. The Governor will appoint this director and then they will be approved by the Legislature. The director cannot accept gifts over \$10,000 without the approval of the Governor. And the board of trustees can no longer accept any kind of gifts. This is for-- this is to be able to control what happens with the money that's given or the items that are given to the Historical Society. The directors for, for-- is forbidden from serving on any other private board would support the Historical Society. That has been a problem in the past, and this solves that issue if we become a-- if we make it a code agency. The director can no longer transfer funds to a foundation and thus bypass the State Treasurer. The State Treasurer will have control of the funds. The director would oversee the day-to-day operations of the Society. The director would conduct an annual meeting, and the director would have authority to disseminate research, research and dispose of duplicate materials or materials outside the scope of the Society's mission. LB1169 re-creates the Nebraska Historical Society Collection Fund. The fund would be administrated by the director. Monies collected for the sale of property owned by the Society would be remitted to the State Treasurer for deposit and/or credit into the fund. Excess revenues would be invested according to the Nebraska Capital Expenditure Act and the Nebraska State Funds Investment Act. I have several emails that I have received. I do not want to take the whole amount of time to read to you those emails that I have received about the mismanagement of Historical Nebraska. I think there are people behind me will help explain that. I would like to talk briefly about the fiscal note. The fiscal note basically involves ICIO, and there's going to be someone behind me that will-- that will address the fiscal note. So if you have questions about that, we will deal

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with that at a later date. So this email is from a person who was a former staff member and a life member of the Historical Society, and is following-- states the following. I'm concerned about the fate of History Nebraska. At least 2 significant events have shown that the original independence of the Society has become an opportunity for individual [INAUDIBLE] and "grandiosam"-- grossment. First, the chief financial officer of the Society used his position to embezzle funds to conceal his activities under the guise of coordinating of the Society's finances and according to the requirements of the state law. Once the attempt was exposed, it took a prison sentence to him. He was-- he was found guilty and several years for his-- it took several years for his replacement to rectify the solution. So the situation is that between the Attorney General and the foundation, they have struck a deal and they're going to remit the amount of money that was transferred to that fund over a period of years. I think it's \$4,000-something a month. So this mismanagement of this agency is-- has been continuing for many years. And I would like to read just briefly another email that I received from a past employee. And he says I was an employee of the agency from August 20 until my resignation December of 2023, serving as a preservation associate. And what we have found is that History Nebraska is not interested in recovering or restoring history. They're interested in writing history. And he goes on to explain some of the things that happened when he was terminated. And some of those things have to do with not allowing him to show up again at History Nebraska sites anywhere unless he is accompanied by somebody or made an appointment. When people leave this agency, they are threatened and they have been intimidated by those people to leave. And so I think it's very important that we send a message to these people that are in charge of History Nebraska that we will not accept or allow that to happen any longer. And so I would say that probably some of these things that happened recently with the money transfers that shouldn't have happened was under the auspices or the direction of the people that now serve on that board or work there. And so we have to make sure that when people trust History Nebraska with their artifacts or their money that it's taken care of correctly. And so there'll be other people behind me that will help explain the need for us to make this a code agency. But I believe this is the way to fix this situation and bring some commonsense management back to History Nebraska. Thank you.

**BREWER:** Thank you, Senator Erdman. Let's see if we have any questions before we let you go here. Questions for Senator Erdman on LB1169? All right. You'll stick around for close?

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**ERDMAN:** I will.

**BREWER:** Please. All right. We are going to start with proponents to LB1169. General Lempke, welcome back to the Government Committee.

**ROGER LEMPKE:** Thank you very much, Senator. You remind me why I'm glad I retired. Thank you. Mr. Chairman and fellow members, I'm Lieutenant General Nebraska, Retired Roger P. Lempke, L-e-m-p-k-e. I was the director of the code agency known as the Nebraska National Guard and the Nebraska Emergency Management Agency from 2000 through 2007. Additionally, I've been president over time of 6 different local nonprofit organizations. From this and from my corporate and military leadership experience, it's easy to see that the Nebraska State Historical Society, i.e., History Nebraska, needs a different leadership model. I'm currently the president of the Nebraska State Historical Society Foundation, so I have insight into the History Nebraska board and agency operations. I've also been a History Nebraska member for several years. To be clear, my remarks today are mine alone and do not reflect the position taken by the foundation. Because of my foundation association-wide social network, I receive informal feedback from both prior and current History Nebraska employees and many concerned citizens about History Nebraska performance. The history-- the History Nebraska Board function that I've observed over the past 3 years is very closed and uncommunicative. To be effective, it needs to be exceptionally open to its members. A couple of examples" The website event calendar, if you look at it today, has only one item on it, which was last Monday's board meeting. Nothing else at all for 2024. So a member looking at that calendar gets no information about what's going on in terms of upcoming events for History Nebraska. The last board meeting minutes that are posted on the website go back to April of 2023. A HN member has been asked-- been asking the board-- an HN member has been asking the board a number of times for specific deaccession information and still has not received clear answers to that. These are 3 examples. I could go on for quite a while. I tried to obtain a copy of the History Nebraska response to the 2022 Auditor's investigation that was released also in August of '22, but was told it was privileged information. I finally received the report this week. The HN response to the Auditor was never presented to the board and never reviewed and approved by the board as far as minutes show, showing really no more board involvement in the response to that investigation. The voting element of the membership is broken. Staff members have been free-- given free membership and then encouraged to vote for the board's preferred slate. A free voting only membership category exists, but



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the HN website buries it. I would challenge you or any of your staff to try to locate and find out how to apply for a nonvoting membership, a voting only membership, I'm sorry. In early 2020, Trevor Jones set out to establish a new foundation with assistance from HN board member David Levy. None of the major efforts involving the significant director activity here were reported or considered by the HN board. The first reference to the new foundation that he formed as a-- while he was an employee of the History Nebraska does not show up in board minutes until July of 2020, when it was announced. It was never discussed or acted on for approval by the board. Shortly after that, the NebraskaLand Foundation-- Nebraska State Historical Nebraska Foundation, us, learned-- were told that we were no longer to look at History Nebraska and help with fundraising. They're no longer going to be looking at us. In 2021 until this day, several HN board members, the foundation board members, also serve on the History Nebraska board. So you've got a duplication and potential conflict of interest. The board is not accomplishing the oversight, compliance, and leadership obligations that it should. History Nebraska is suffering from a lack of public and government trust. The actions taken by higher level staff are often not reported to the board for discussion and action. Employees are operating in a fearful environment. They have been forced to participate in social adjustment programs that take away from focusing on their jobs, and that can be demeaning to them. A number have been pushed out, as previously reported, because of disagreement over History Nebraska operations. A board structure that only meets quarterly and is severely limited in the information it receives is not an effective model for getting History Nebraska back on track to accomplish its core mission. Am I allowed? Can I continue? I just got a little bit.

**BREWER:** Yeah, finish it up.

**ROGER LEMPKE:** OK. One last thing, the History Nebraska Board has enacted significant salary increases for the agency directly, the one that's since left, and that's attached in what you've received. The '21-- 2021 salary information reveals that the director to be the third highest paid state director in Nebraska, 60 employees, when you've got other directors that are paid less with over 400 employees, indicating a lack of oversight on funding and funding management in the agency. LB1169 is the one hope for getting History Nebraska back into a positive track for collecting, preserving and making available history to Nebraska. The two aspects of this legislation stand out to me. The first, the Legislature will be involved, as it will be providing a confirmation of a nominee from the Governor. The code

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agency as the-- as a-- as a code agency head, the director will be able to establish very effective relationships with other code agencies and other parties within Nebraska. Putting the current board members in an advisory capacity, to me, will allow them to better interface with members and the public and have a better means of individually focusing concerns, ideas and improvements back through the director for implementation. And finally, to your credit, LB1169 adds conflict of interest language. Appreciate that. In summary, a strong History Nebraska is important to the Nebraska State Historical Society Foundation. If they're there, charging ahead, improving, getting better and accomplishing, and having the confidence of the people, we're there to help raise the money they need to be successful going forward. Thank you for your time.

**BREWER:** Thank you, General. Let's see when you come into the combine here, Army National Guard plus the civilians, how many folks did you have under your authority?

**ROGER LEMPKE:** Oh, my gosh. Well, when you look at the total numbers, we got to around, a little over 4,000.

**BREWER:** All right. So it's safe to say you kind of understand how to manage people.

**ROGER LEMPKE:** A few.

**BREWER:** All right. Well, let's see if we got some questions for you. Questions for General Lempke? Well, sir, I may not get a chance again so just so everyone knows, when I was wounded in Afghanistan in 2003, the, the call that came back to Nebraska went to General Lempke. And then his job was to notify my family. So he was the one who had that responsibility. And I've always appreciated the fact that, you know, he, he handled it with as much care and kindness as you could consider the situation. And then he made sure that for the next 6 months, while I was still in theater, that my family was taken care of. So when they say Guard's family, he's living proof of it. Thank you, sir.

**ROGER LEMPKE:** You bet. Families are important, aren't they?

**BREWER:** Yes.

**ROGER LEMPKE:** Absolutely. Thank you very much.

**BREWER:** Thank you for your testimony.

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**ROGER LEMPKE:** Yes.

**BREWER:** All right. We are working on proponents to LB1169. And we'll get-- we'll get everybody here. We'll just keep swapping them in here. All right. Welcome to the Government Committee.

**JEFF BARNES:** Thank you, Senator. My name is Jeff Barnes. Keeping the spirit of, I'm from the "Fighting 13th" of northeast Omaha. But I am Jeff Barnes, J-e-f-f B-a-r-n-e-s. I'm a fifth generation Nebraskan. I'm the author of several books on Nebraska and Great Plains history, humanities presenter, and past trustee of the Nebraska State Historical Society. I'm here to speak in support of LB1169. John Gottschalk, former CEO and publisher of the Omaha World-Herald, who became a friend through one of those book projects, once told me that policy is the realm of the board and management is the realm of the director. The Society board, unfortunately, gave both realms to the C-- its past CEO, Trevor Jones, who created a culture of secrecy, distrust and confusion accountable to no one. When I began on the board of trustees in 2012, the Society was a small agency loaded with talent and experience; and there was an open, collegial environment between the board director and the staff. Within 2 years of his hiring, Jones had forced out almost 20 employees who brought more than 300 years of service to the Society. Remaining employees were forbidden to talk with the trustees, to other divisions, or even talk to the director without clearance from their supervisors and the director himself. When a few of us on the board of trustees blocked his plan for a no bid quarter of a million dollar study unreported to our board, which would have violated state statute, he limited our oversight by having the president block us from executive and oversight committees. A code of conduct was initiated, requiring each trustee to have a duty to loyal and obedience to the Society, and forbidding contact with the media or outside investigators, such as the Attorney General, Auditor, or senators. He killed all efforts to restore the permanent collection of the Nebraska Historic-- History Museum after its renovation. As a result, there's no place in Nebraska to tell the story of the state where visitors can come and learn our history. Its galleries automatically turn off the lights when no one is in them, and the galleries are typically dark. Jones also cut research hours of the State Library from 6 days to 1, and assigned its research staff to unrelated tasks. In protest, I wrote my last 2 books without the resources of the state archives. Jones's hatred of clutter was well known, and he once told a Nebraska Museum Association conference that he would gladly destroy hundreds of flags in his museum's collection if he only needed 5. There are eye-witness reports

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of his hiring a contractor to throw out valuable but bird-dropping covered artifacts from a warehouse at Fort Robinson without going through the deaccession process. Employees of the contractor were seen putting the more valuable artifacts in their personal vehicles, rather than in the dumpsters for the landfill. None of these things would have happened without a weak, ineffectual board. I don't like the idea of the Governor and Legislature having more oversight, but I don't think the Society board has the ability or willingness to set policies that are accountable to Nebraskans. The Society should have had reformers as trustees by now. But more than a year and a half after Jones's departure, the board still hasn't hired his replacement and still follows his flawed strategic plan. A final sentence: I do think the increased oversight and daylight this bill offers can help restore the Society to its role of preserving, protecting and presenting the history of Nebraska. Thank you.

**BREWER:** Thank you. All right. Let's just back up a little bit because you got a lot of pack-- you got a lot packed in here.

**JEFF BARNES:** And I could have gone for 30 minutes.

**BREWER:** Well, I understand. But you don't know when you come in here exactly how much time I'm going to give you. But so you started in what year?

**JEFF BARNES:** On the board?

**BREWER:** Right.

**JEFF BARNES:** 2012.

**BREWER:** All right. So you started. At the point you started, they had been in existence for roughly 20 years. No, about 12.

**JEFF BARNES:** In its present form--

**BREWER:** 94--

**JEFF BARNES:** Yeah.

**BREWER:** So, at that point, things were kind of in a, in a normal rhythm. And as far as being able to tell the story of Nebraska history and, and the items that they had in their collection and all that. And then over the period that you were there, as you went through this, it

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was determined that certain items just weren't needed because, well, clutter or too much of it or.

**JEFF BARNES:** Yeah. Well, when I began on the board, the museum building was in bad shape. It was not up to code or speed what was needed. So we did seek and successfully achieved a \$8 million renovation to the building, actually overrode a veto to get to that. And the intention was always to restore the permanent collection of Nebraska, which tells the story of the state. By that time-- by the time that was completed, Mike Smith had retired. Trevor Jones had come on, but he had never put the restoration of the permanent collection on-- back on track. In fact, I even introduced a motion at one of our board meetings to restore that collection within a 3-year period, which was plenty of time. And he convinced the board to vote against that. In fact, only Senator Nelson and myself-- John Nelson, John Nelson was a board member at the time. He and I were the only ones to vote to bring back the story of Nebraska to the museum, and I have been in it for a year. I don't believe it's come back at all.

**BREWER:** You mentioned Fort Robinson. Obviously you get my attention since it's in my district. We were out there last May, was it, and toured not just the, the facilities there, but the entire camp. One of the things that we felt needed to be done is to take and build a facility that would house all of that history in one place and have it so sequentially it was the history of the camp. And I think we set aside money to do that and do some other things at Fort Rob. As you have this collection of stuff, where do they keep most of it?

**JEFF BARNES:** I could not speak to that. As I said, I was board, board member and we met quarterly. And I have a particular interest in the forts myself. I've written a couple of books about the military forts of the Indian Wars, so Fort Robinson's always held a warm spot for me. But as far as what-- how the Society stored its collection on site, I was not familiar with that. I only heard about this drastic evacuation of the warehouse after it had been completed. And I'd since heard from several other people, including former, retired National Park Service people, who had tried to stop that from happening out there as well. But their, their pleas fell on deaf ears as well.

**BREWER:** All right. See if anyone has questions. Questions? All right.

**JEFF BARNES:** Great. Thank you very much, Senator.

**BREWER:** Thank you.

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**JEFF BARNES:** Thank you.

**BREWER:** Jason, welcome back to the Government Committee.

**JASON JACKSON:** Thank you, Colonel. It's my first time this session, so thanks for having me.

**BREWER:** You can go ahead and begin when you're ready.

**JASON JACKSON:** OK. Good afternoon, Colonel Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Jason Jackson, J-a-c-k-s-o-n, and I'm the director of the Department of Administrative Services. And I'm here to testify in support of LB1169. I did pass around an exhibit. I won't be speaking to that in my opening remarks, but I would welcome a question about it when we get to Q&A. And I'd also welcome a question about the fiscal note, because I believe I can provide some clarity with respect to both of those items. We support LB1169 because this is a government accountability bill, pure and simple. OK. The bill arises out of the impropriety and the malfeasance of the immediate past director with respect to misappropriation of government funds and the intermingling of government funds and private funds and the audit findings surrounding that malfeasance. And we believe this bill addresses the root causes that were at work in that immediate past misconduct. But it's also important to recognize that this was a pattern over many years of issues with the Nebraska Historical Society, also known as History Nebraska. Going back as far as 2007, there was a adverse audit report related to about \$500,000 in misspent funds on real estate transactions. Subsequent to that, which I believe Senator Erdman alluded to, the CFO of the agency actually faced criminal liability relating to some of his misconduct. And then, of course, we have the immediate past director's misconduct. And in the intervening years, a number of audit findings related to just the infirmity in terms of their accounting and financial processes and controls. And so what brings me before you today is Administrative Services is responsible for accounting operations for the state and personnel operations for the state. And we see this bill as a vehicle to address those operational deficiencies within the agency, restore appropriate controls, and really appreciate Senator Erdman's leadership on that and taking that as a point of emphasis. The bill also reflects Governor Pillen's belief that we need strong government accountability in all executive branch agencies, code and noncode, board or commission, or led by a director, and strong financial controls. So Senator Erdman addressed it, but I'll briefly hit upon it. What does

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the bill do? 3 key provisions that will mitigate the risk of this type of impropriety going forward. First, making the director an appointee of the Governor and confirmed by the Legislature. We think that if the director is accountable to Nebraska's elected leadership like yourself, that will restore a higher degree of accountability. Secondly, preventing the director from serving on both a private charitable organization as well as head of the agency. We think that's an inherent conflict of interest. We think that contributed to some of the underlying issues that were experienced, and we want to foreclose the possibility of that happening. And then third, it significantly increases the rigor around reporting requirements and requires gubernatorial approval of financial gifts over certain financial thresholds. So collectively, we think this bill takes substantive steps to restore Nebraska's trust in the agency, restore strong operational processes, accountability, and operational oversight. I'll conclude just briefly with a couple words of gratitude. First, to Senator Erdman for his leadership on this issue. And I also want to thank the Auditor of Public Accounts, Mike Foley, Craig Kubicek, and the entire AB-- APA team. But for their work, some of this malfeasance might not have been discovered. And I will just note that Craig Kubicek with the Auditor's Office is, is prepared to testify behind me in a neutral capacity in his best position to answer any specific questions about the audit findings and some of the improprieties that happened there.

**BREWER:** All right. Thank you. All right. If LB1169 becomes law, this puts a bigger monkey on your back, does it not, as far as oversight or, or being accountable for more stuff, more people?

**JASON JACKSON:** Colonel, I'm not sure I would characterize that way. It's interesting just looking at History Nebraska is kind of a-- as a creature, right? It's a strange governmental creature that's at odds with any other agency in state government that I'm aware of. So you have, first, it's, it's a pretty large organization. OK? So we see boards and commissions leading agencies elsewhere in state government. You know, for example, we're all very familiar with the commodities boards and, and those are agencies of 1 or perhaps 2 people. This is an agency-- I know General Lempke referenced 60 people. The last figure I saw was nearly 100 people in this organization. So a lot of employees' operations across the breadth of the state, an \$8 million budget, so it's a significant operation. And it's very atypical in Nebraska government that an agency of this size and complexity would be led by a board or a commission. And, and more strange, or at least at odds with common practice, is that it's led by a, a board of

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trustees, of which only 3 are gubernatorial appointees. And that is the only intersection of elected leadership interjection into the process here of, of overlooking this board. So a minority of the board members are gubernatorial appointees. The rest are selected by the, the Society at large so very kind of strange creature of that. And, Colonel, I appreciate the opportunity to just also say, Senator Erdman's remarks notwithstanding, I don't have any reason to impugn the integrity of any of the existing board members or any of the existing leadership at the agency. That's not our-- that's not our objective here. Our objective is just to make sure that the agency is set up for success going forward and has the right organizational structure to make sure it can succeed and that the right incentives and controls are in place such that we can have reasonable confidence in its enduring success. So I think that that kind of touches upon your question, Colonel. You know, from an operational standpoint at Administrative Services, we regard all, all agencies as our customers. We extend the breadth of our full support across our entire portfolio, whether it's procurement operations, accounting operations, personnel operations, indiscriminate of whether you're a code agency or noncode agency. So from our perspective in terms of the level of support the agency would receive, they con-- they continue to enjoy our full support now. And they would expect our continued support if they were to become a code agency.

**BREWER:** All right. Thank you for clearing that up. Now, one other one before I let you get to the questions. The sheet you handed out here, it's got 3 blue columns.

**JASON JACKSON:** Yep.

**BREWER:** Help me to understand the significance of each of those.

**JASON JACKSON:** Yeah. And I'm glad you asked. So this is part of the, the strangeness associated with this agency right now and part of the strangeness or one of the root causes that we believe contributed to some of the financial malfeasance and the conflict of interest. So what you have here and, and you heard both Senator Erdman as well as General Lempke testify to this; in the center column, you have the board of trustees for History Nebraska or the Nebraska Historical Society. That is the current leadership of the state agency, Nebraska Historical Society. OK? The left column, as you're looking at it, is the longstanding legacy charitable foundation that preceded even Historical Society becoming a state agency and has had a longstanding mission of supporting the Historical Society's statutory mission. And,



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and, and the-- that's the group of which General Lempke is a member. On the right column, this is the organization that the prior director set up on his own initiative. And I'm being just a little conversational, but, but this is the new organization that, for which it was really at the-- at the issues surrounding the, the conflict of interest, the intermingling of public funds with private funds. And, and, and so what, what this is attempting to illustrate is that this is much, very much still an enduring issue right now. You have leadership that is intermingled between this 2, a rival charitable foundation. You have the current director of the agency in a, in a board position over the charitable organization. And, and again, I presume everybody's altruistic motivations. I'm not making any effort to impugn anybody's motives or suggest that anybody on that list of leaders is anything other than altruistically interested in the-- in, in History Nebraska. All we're attempting to illustrate is the, the potential for a conflict of interest going in the future very much persists if we don't take a substantive step today to prevent that from happening.

**BREWER:** All right. You've got 5 lines that run across there.

**JASON JACKSON:** Yep.

**BREWER:** That just indicates that they're on both of those.

**JASON JACKSON:** Correct.

**BREWER:** OK.

**JASON JACKSON:** Yes, sir.

**BREWER:** All right. Let's see what questions we have. Questions for Jason? Oh, yes. Senator Conrad.

**CONRAD:** Thank you so much. Thank you, Chair. Thank you, Director Jackson. Good to see you as always.

**JASON JACKSON:** Likewise.

**CONRAD:** And I know because of your expertise and training as an attorney as well, I want to ask a host of rather precise questions to make sure that I can get my head around some of these issues. And I'm albeit a bit rusty because it's been a while since I sat in the Appropriations Committee. But from that experience, I think there's,

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what, maybe just shy of 80 state agencies or something like that today--

**JASON JACKSON:** Sounds [INAUDIBLE] correct.

**CONRAD:** --ish. And they're usually-- we kind of talk about it in kind of common parlance, like, you've got your code agencies, your noncode agencies, and your independent or constitutional agencies. Is that kind of a fair grouping, generally, of how we conceptualize our state agencies in Nebraska? And I might be missing it or maybe they've updated the terminology since I've been gone.

**JASON JACKSON:** We still use the same terms, absolutely, yeah.

**CONRAD:** OK. Very good. Do you have a sense and I don't know, I could go back and look at the State Legislators' Guide, roughly how those classifications break down over those 80 agencies? Is it a third, a third, and a third? Is it 50%?

**JASON JACKSON:** Oh, OK.

**CONRAD:** You know, I'm not sure if I know. It's, it's been a while.

**JASON JACKSON:** Well, it's been subject to a change in recent years.

**CONRAD:** OK.

**JASON JACKSON:** We've combined when we did-- we did consolidation, for example, with the Department of Energy.

**CONRAD:** Right.

**JASON JACKSON:** We had consolidation--

**CONRAD:** Right.

**JASON JACKSON:** --with Veterans' Affairs. We had Aeronautics joined Department of Roads--

**CONRAD:** Yeah.

**JASON JACKSON:** --to create Department of Transportation. If my memory serves me, there's currently 17 or perhaps 18--

**CONRAD:** OK.

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**JASON JACKSON:** --code agencies. So, and then just term of art, code agencies would be an agency that [INAUDIBLE] report-- operationally reports up to the Governor. That's the subject of this bill is to make History Nebraska, Nebraska Historical Society a code agency. As between constitutional agencies or noncode agencies, I couldn't say the exact breakdown.

**CONRAD:** Well, that's impressive and specific. Very, very well done. And, and far better than I would have had off the top of my head, so that's helpful. OK. So this is, is kind of helping me to figure out what's going on here, I guess, or what the problem is and trying to figure out what the best remedy is. I mean, I think there's no doubt we all care about the mission of History Nebraska. We're all very proud of our, our history in Nebraska and should tell those stories robustly and want to make sure that the stewardship of those stories and the, the means to tell them are appropriately stewarded. I know that my office has received over the last couple of years a lot of complaints from constituents who are concerned about the lack of access to the collections for their various and sundry research endeavors. And so-- and, of course, I've read the headlines that, that we've all read about some of the issues that have happened in the agency as well. So I-- what I'm struggling with, though, Director, is trying to figure out how changing the agency classification prevents against employee mismanagement or even criminal wrongdoing, because that in and of itself is not an inoculation against those things. Right?

**JASON JACKSON:** Well, I want to say-- thank you for the question.

**CONRAD:** Sure, yeah.

**JASON JACKSON:** I wouldn't say any one of these things is a complete inoculation against--

**CONRAD:** Right.

**JASON JACKSON:** --the risk of employee, employee wrongdoing.

**CONRAD:** Yeah.

**JASON JACKSON:** And so what we looked at is, hey, in totality, we don't see these types of issues in code agencies. We generally think the level of-- and I'll just, again, return to the nature of the complexity of this operation.

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**CONRAD:** Sure.

**JASON JACKSON:** It's a-- it's a large agency. And, and again, you know, I addressed briefly that I didn't want to impugn the integrity--

**CONRAD:** Yes.

**JASON JACKSON:** --of any of the leaders there. I also don't want to disparage their leadership acumen. That's not my objective either. But to say that an organization that's 60, 60 to 100 people, again, the figure I saw this morning I think was 97, \$8 million budget, can be operationally managed by a board that meets quarterly. I mean, that's a lot of operational complexity. And so when I think about the advantages of being a code agency, there's the operational rigor associated with its-- with its management of its day-to-day operations and the support of the administration. As it gets to the malfeasance, I think it's about the accountability piece and specifically, and the accountability to this body in terms of the confirmation process and accountability to the Governor in terms of the position serving at the pleasure of the Governor. Certainly if, either in this administration or the prior administration, this type of misconduct had occurred under the watch of either Governor Ricketts or Governor Pillen, that would have resulted in an immediate termination. I can say that with, with certainty. But when you have a instead the agency being led by a board, and I think it's a board of 13 individuals, of which only 3 are gubernatorial appointees and that's the only intersection of operational oversight by any elected leadership in the state, it just proved insufficient to hold the leadership of the agency accountable when confronted with that malfeasance.

**CONRAD:** OK. I mean, but just to push back there for a minute on operational complexity argument, Game and Parks, for example, is a noncode agency with a huge budget and a huge amount of staff spread out all across the state. Now, I know Senator Erdman has some ideas about Game and Parks that he's been very consistent about, but just to kind of push back there, it's perhaps not accurate to say that History Nebraska is a sole outlier in regards to operational complexity for a noncode agency. Right?

**JASON JACKSON:** Perhaps.

**CONRAD:** Yeah. OK. The other piece then in going back to-- and I do appreciate the oversight and engagement between the appointment process and the confirmation process. And, and I think that strikes

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the right balance for legislative oversight and executive function in a lot of ways. So I, I get, I hear what you're saying there and I, I like we are headed there. But where I'm struggling is this kind of general sense that somehow or another if you're a code agency, there's no waste, fraud and abuse. And I just-- I just don't think that that is an accurate reflection of what's happening in state government presently or historically. I mean, I think it goes without saying that some of our most complex and most troubled state agencies, including the Department of Corrections, Department of Health and Human Services, etcetera, are code agencies. And that classification alone has not prevented or stopped waste, fraud and abuse in, in government.

**JASON JACKSON:** I would certainly agree. I would agree that you have waste, fraud and abuse, you know, throughout. I mean, we have humans everywhere, right?

**CONRAD:** Yes, yes.

**JASON JACKSON:** Mistakes happen.

**CONRAD:** Absolutely.

**JASON JACKSON:** And so what this ability-- what this bill is about is putting controls in place. And gubernatorial, being a gubernatorial appointee certainly isn't sufficient to immunize somebody from, you know, making mistakes.

**CONRAD:** Yes.

**JASON JACKSON:** Neither is the legislative confirmation process--

**CONRAD:** Yes.

**JASON JACKSON:** --a surefire way to, you know, prevent, you know, somebody to, you know, that we're going to get a great person in every instance. But as I just survey the landscape of the relationship between the administration and the body and, you know, even those agencies that you referenced, the level of legislative and executive branch rigor that's applied to those agencies when confronted with issues that are either of policy, it-- I haven't seen a comparable level of focus on agencies that are led by boards and commissions. And certainly we didn't see the board that's currently in charge of History Nebraska exercise that same degree of rigor and accountability that we've seen exercised with respect to code agencies.

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**CONRAD:** OK. That's helpful. And then my last question is, is just more to the remedies, right, recognizing that perhaps there has been an issue here. I'm trying to sort through why this remedy is preferable when we've already talked about and documented that audits have uncovered wrongdoing or waste, fraud and abuse as they should, which is helpful and appropriate. The criminal justice system has intervened when there was a reason to intervene. Right? And that's currently being sorted out through the court system now. So the Attorney General has inherent original jurisdiction over nonprofit institutions, including the ones organized around History Nebraska, to ensure that those directors are doing their due diligence. We've got audit. We've got criminal justice system. The AG's got enforcement power. And it seems that these remedies in many ways are actually working to a certain degree to bring these issues to light and ensure accountability. So I-- it-- and it's hard to tell from the outside. But being around the nonprofit sphere and state government sphere for a while, it feels like this is a problem with a lot of leadership turnover over the years and hitting some, some road bumps and maybe some turf battles between the different boards that are out there. I don't know, maybe that's not a fair assessment. But I'm, I'm, I'm not understanding this particular remedy to address the issues that have been identified. Do you know what I'm trying to say there? And I see that you do and that that's your conclusion and the Governor's conclusion that you think that this will help to advance the mission and bring additional accountability. But I'm just not sold on that yet with the existing host of remedies that are available under the law. So I'm just thinking out loud and trying, trying to process that. And, and I appreciate your, your dialogue.

**JASON JACKSON:** Yeah. My pleasure. If I might respond.

**CONRAD:** Please, yes, please.

**JASON JACKSON:** I would agree that it seems like those remedies have worked, are working. But I would also observe that it feels to me like those remedies are reactive and what we're talking about--

**CONRAD:** Yeah, fair.

**JASON JACKSON:** --is prospective and preventative and, and putting controls in place such that this impropriety would be stopped in its tracks or deterred or otherwise just never even contemplated because the conflicts of interest wouldn't even be permissible.

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**CONRAD:** OK, that's really helpful. And that lists perhaps even another one, if there-- there are existing laws related to financial conflict of interest or otherwise. And-- or maybe we're just talking more atmospherically instead of, like, actual violations or conflicts for attorneys or what conflict. Just generally help me understand the conflict that you're talking about: an actual financial conflict, legal, ethical conflict or just a general messiness between these boards.

**JASON JACKSON:** Probably the latter,

**CONRAD:** OK.

**JASON JACKSON:** But I think it's-- I think it's foreseeable and contemplatable that if a agency leader-- I'm not aware of any other instance where it would be permissible for an agency leader to be the leader of an agency and also be the leader of any-- of, of a charitable organization or a nonprofit organization to be involved in fundraising on behalf of your agency, to use state-- the state website and state resources for private fundraising. When I looked into this issue, this was a matter of first impression to me--

**CONRAD:** OK.

**JASON JACKSON:** --encountering these types of behaviors. And it's just completely at odds with my general expectations of executive leadership in, in state government. And so we, we just looked at, hey, what, what are the, what are the anomalies here in terms of the leadership structure and what types of fixes could be done to to prevent that type of behavior into the future?

**CONRAD:** That's very helpful to have those specific examples. Thank you. I understand where, where that's coming from. And that is probably important to clarify and deal with. Thank you.

**JASON JACKSON:** Thank you.

**BREWER:** Since we used the example there with Game and Parks, so Tim McCoy was to-- as the director of Game and Parks, if he was to be mismanaging funds, who would be the check and balance on him? Would that be internally within Game and Parks or how would-- how would anyone know if he was having a behavior that was similar to what we see with both the directors here?

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**JASON JACKSON:** I don't-- I'm not sufficiently familiar with Game and Parks's operations, as we-- it's not a code agency. So it's a-- it's outside the--

**BREWER:** I'll just hold that question for Erdman when he comes. OK. Questions for Jason?

**JASON JACKSON:** I would welcome a question on the fiscal note if--

**BREWER:** Oh, yes. We need to know more, please.

**JASON JACKSON:** Thank you, Senator Lowe, for asking about the fiscal note. [LAUGHTER] The fiscal note prepared by History Nebraska was completely at odds with the administration's expectations as to the costs that they would actually incur were they to come-- become a code agency. They identified, I believe, about \$169,000 in costs, which they largely attributed to [RECORDER MALFUNCTION] I personally spoke to the OCIO controller just this week. He assured me it was his expectation that the agency could be brought into the fold with minimal costs and with most of their legacy systems in place. Exceptions being server upgrades, things like that, where there were security protocols that were at odds with current best practices, but those would be expenses they could expect to incur in the future anyway. What's more, is the OCIO's office expected that this will be a net-cost savings for History Nebraska, because they will enjoy the support of the OCIO's office rather than having to in-source their IT resources. So, I just wanted to kind of cover it down on that because I think that, that there would be a cost with just moving an agency organizationally or changing its leader. It was at odds, I think, with many in the body's expectations and was certainly at odds with the administration's expectations.

**BREWER:** OK. Outstanding questions, Senator Lowe. Thank you. All right. Any other questions for Jason? All right. Thank you for your testimony.

**JASON JACKSON:** Thank you, team.

**CONRAD:** Thank you.

**BREWER:** All right, Cindy, come on up. All right.

**CINDY S. DRAKE:** You said Craig was going to.



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**BREWER:** Oh. Well, I can-- I don't-- whoever, whoever is a proponent to LB1169 and is available, come on up.

**BREWER:** Cindy, welcome to the Government Committee.

**CINDY S. DRAKE:** Thank you, Senator Brewer. Excuse me that some of my notes will not match what I'm sending around because I've added some additional things. Chairman Brewer and members of the Government Committee. My name is Cindy S. Drake. That's C-i-n-d-y S. Drake, D-r-a-k-e. I am a proponent of LB1169, regrettably so. I am a German American who's living on a farm in Cass County that's been in my family for over 125 years. I have other German ancestors who were in Cass County before 1860. The memories of our Nebraska ancestors are under threat due to the previous administration of the State Historical Society, currently branded History Nebraska. Nebraskans today are the prodigy of a hard-working and determined people. The sacrifices and accomplishments of past Nebraskans deserves to be preserved, respected and carefully curated for future generations. Unfortunately, History Nebraska, in my opinion, is failing at this important mission. There are 3 fundamental reasons why I believe this is happening. First, History Nebraska should not be a taxpayer-funded social justice organization. It appears to me that History Nebraska has adopted a more personal agenda. However, despite the so-called fair treatment and full participation of all people, the facts indicate that at least 80 employees resigned or retired from History Nebraska between 2016 and 2023, and in my opinion, were not treated in a professional manner. Secondly, I feel that History Nebraska should not be allowed to become a resume mill. That is to say, employees and leadership should not develop the organization to serve their resumes rather than the state of Nebraska. As a taxpayer speaking on a matter of public concern, that is not appropriate. Thirdly, and most importantly, the agency seems to suffer from old, old fashioned mismanagement and potential waste of taxpayer funds. It should not be allowed to develop a cult mentality relationship between past and current leaders. I strongly believe the current operational system needs to be changed. Our heritage matters. Our history matters. I'm asking you today to honor our grandfathers and our grandmothers, no matter what ethnic race, as well as the Native Americans who came before them. I'm asking you to honor their memories by ensuring the state historical society is properly managed. We need to leave the work of diversity, inclusion and gay pride to others who are tasked with such missions. History Nebraska, which should still be known-- should still be known as the Nebraska State Historical Society, must be tasked with preserving the history of all Nebraskans and not demean

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or revise the history of our ancestors. I spent my entire 45-year career as the librarian of the Nebraska State Historical Society. I'm also a genealogist and a historian. I am passionate about restoring the true mission of the State Historical society. Thank you for the consideration of my observation, comments and opinions.

**BREWER:** All right. Thank you for your testimony. Cindy, can you give us a little more background on-- so you worked full time there--

**CINDY S. DRAKE:** Yes.

**BREWER:** --as a librarian?

**CINDY S. DRAKE:** Yes.

**BREWER:** And you started in what year?

**CINDY S. DRAKE:** 1977.

**BREWER:** And you finished?

**CINDY S. DRAKE:** I was forced to resign on March 17, 2023.

**BREWER:** OK. So you were there for probably as long as anyone that we were going to talk to today.

**CINDY S. DRAKE:** That's correct.

**BREWER:** Kind of walk us through the transition over time that the organization went through.

**CINDY S. DRAKE:** Well. The Nebraska State Historical Society was a state institution before 1994. And I-- it originally started in 1878. And by 1994, there had been some issues that had arose in previous few years. Basically, to summarize, the time was getting that the State Historical Society could not raise as much funding as it formerly had. And if it was going to be more in sync with the state of Nebraska government, there had to be some changes made. Now, at the time that the statute that went through in 1994 to make it a state agency, there had been some conflicts on the board. There had been some times the board was in disagreement on the directors that they had hired. We had had a long-serving director from-- of Marvin Kivett, who's from Cass County. And he was well, well respected. After that, there was some changes that may have needed to have been made, but the board was split on the next director and some of the things the next director

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did. We basically had a Nebraska author who stood up at an annual board meeting, and was very dissatisfied with the director. So there was definitely-- there was, there was a split on the board. There was some that supported the director, some that didn't. So after that director left, besides the lack of money that was not-- the-- not as much money anymore, they looked into then becoming a state agency. The thing is, is that when we became a state agency, there's various state rules and regulations that, that should have been put in place at the time. And the state of Nebraska tried to do it. But the deputy director, who later did the embezzlement, he kept coming to the Capitol and getting things his way of how to run things, basically, because, you know, he was going to-- it was a noncode agency. And he seemed to get by with this until 2007, when it finally came to light of what he had done. Mike Foley, his staff, they came in to clean things up. And at that time, though, with what they did, there was a seed of distrust that was planted in the State Historical Society. That seed of distrust laid dormant until 2016, when Trevor Jones was hired. That seed of distrust between the state historical society and state government. It then grew because-- and by 2020 it came into full bloom, when we have this next incident. I guess that's all I can say at this time.

**BREWER:** OK.

**CINDY S. DRAKE:** I do have another question to direct, but yes, I, I was-- when I was forced to retire, I was the longest-serving employee at the State Historical Society.

**BREWER:** Well, what we're trying to do here is kind of understand--

**CINDY S. DRAKE:** Yes.

**BREWER:** --what has transpired, and we're getting bits and pieces from different testifiers. And to, to gel this together so you kind of have a true snapshot, that's what we're trying to do, just kind of fill in some of the voids there, and, and you've helped with that, so thank you. Let's see if we don't have some questions for you. Questions for Cindy. All right. Thank you for your testimony. Thank you for your written testimony.

**CINDY S. DRAKE:** And thank you.

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**BREWER:** OK. We are still looking at proponents to LB1169. All right. Seeing none, we will transition to opponents to LB1169. Welcome to the Government Committee.

**BEN GRAY:** Thank you. Chairman Brewer, members of the committee, my name is Ben Gray. I live at 6946 North 54th Street in Omaha, Nebraska. 68152. I'm currently a-- on the executive committee of History Nebraska. Been there for a little over a year, so some of the things that you talk about, I've heard stories about but I'm not sure where the truth lies in some of this. I want to say, today, that I've heard a number of accusations and a number of things that have gone back and forth about this agency and its mismanagement and so forth. But what I've, what I've heard really, is that we're talking about 3 basic incidents. One that happened in 2007, another that happened in 2009, and another that happened about 3 years ago. And the one that happened about 3 years ago is currently being addressed and adjudicated. So where we are now, I have some concerns about legislation that you may write because, as most of you know, and I know it, from being a legislator myself, that legislation can be a double-edged sword. And you can also have unintended consequences to the legislation that you may write. To me, I have concerns about the hearsay that I've heard a lot about, but I don't know that that hearsay is actually factual. And I don't think that this body ought to go into a situation where we're talking about changing laws or adding what some people have called accountability without understanding what the real issue is. Chairman Brewer, I think you have suggested well, that-- you know, what you're trying to do is figure out where this-- where this really is. And to me, I think where we are is-- with this particular group, I think you need to understand a couple of things. First of all, there's a lot of hearsay testimony that I think needs to be sorted out. The other thing I think that you need to recognize is that this agency has-- is nationally recognized. We have national accreditation. So we have the museum association, that has said that this organization is operating, the way that it should be operating as it relates to how museums are supposed to operate. Now, if there's some other issues that need to be addressed, for example, we're talking about this, the last issue that occurred. That's being addressed. But in addition to that, we have the 2 bodies that are, as Senator Conrad talked about, there are two bodies that have been at war, kind of like, with each other. And what we have done is had a committee that, that consists of both groups sitting down now in an attempt to work out the differences, so that we don't have to go through this whole thing over again. I'm concerned about writing legislation that right now, based on hearsay, based on a

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couple of circumstances that happened 8 or 10 years ago, one that happened more recently that's also being addressed--OK-- that's also being addressed, I think we need to be looking at that a little bit more seriously. I think there are other ways to get at it than writing significant legislation, because in one instance, you have to be looking at what the state wants, and the other instance you have to be looking at what will continue to get us accreditation. And in some instances, we need to know what that is before we start writing legislation. So I think it's important for us to step back a little bit, look at some of the things that have occurred, do some investigation about what has been said, but has not at this point been proven, and then go from there with legislation. I think we're moving too fast. I think we may do something that may solve what we think might be 1 problem, but as a result of solving that 1 problem, we, we may create 4 or 5 more problems. With that, I'll stop and answer any questions that you all might have.

**BREWER:** All right. Thank you for your testimony, Ben. Let's see if we don't have questions. Questions? Oh. Yes, Senator Halloran.

**HALLORAN:** Thank you, Mr. Chairman. Thank you, Mr. Gray, for being here.

**BEN GRAY:** Sure.

**HALLORAN:** So on July 30, 2020, not quite 4 years ago, it was announced to the NSHS Board that the History Nebraska Foundation had been recently established by Trevor Jones--

**BEN GRAY:** Yeah.

**HALLORAN:** --with the support of Dave Levy, a board member.

**BEN GRAY:** Yes. That's my understanding.

**HALLORAN:** Well, why was this action by Mr. Jones not previously presented to the board members for discussion and approval?

**BEN GRAY:** I wasn't here then, so I can't address that. Like I said, I've been here a little over a year, just a little over a year, maybe a year and a half. But I-- but as far as the beginnings of all of that, I'm not aware of why that occurred or what the circumstances were, or what the disagreements were.

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**HALLORAN:** Well, I agree we shouldn't act fast, but that's been almost 4 years ago, and, and, and, and I, I would question if that's been resolved.

**BEN GRAY:** Well, I think you have a committee that's looking at resolving that. So I would, I would not be-- I don't think I would jump the gun until that committee has completed its work. And if there can be no agreement at that point, then I think you still have the opportunity to create and pass meaningful legislation after you've done a little bit more homework. I've heard a lot of hearsay, but I've not heard a lot of facts. And I think we ought to be able to understand what reality is and what the facts are before we start. For example, I'll give you an example. When we're talking about any member can, can accept a gift. That's, that's not necessarily true because there's a committee that you have to go through. And that committee determines whether that gift will be accepted by History Nebraska or not. And there are several criteria, both in state and-- as well as museum standards, that have to be met with that. So, you know, I, I think-- that's where I sit with, as far as that's concerned.

**HALLORAN:** How long have you been on the board? You haven't--

**BEN GRAY:** A year and a half.

**HALLORAN:** Year and a half. OK. All right. Thank you.

**BEN GRAY:** Um-hum.

**BREWER:** Senator Lowe.

**LOWE:** Thank you. And thank you, Mr. Gray, for being here.

**BEN GRAY:** Yes, sir, Senator.

**LOWE:** Have there been gifts accepted by 1 person and not the whole committee?

**BEN GRAY:** The-- 1 person can-- someone can call me and say, hey, Ben, I got something I want to give to the history society-- History Nebraska. And I can say, OK, I'll recommend it, but it has to go to this committee for their approval before we can do that. So nobody can give it-- nobody can accept a gift without it going through the historical-- without, without going through this committee of the historical society first.

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**LOWE:** So that's never been done.

**BEN GRAY:** I don't know, I can't say-- I can't speak to that.

**LOWE:** At least for the last year and a half.

**BEN GRAY:** For the last year and a half, I, I don't-- I haven't heard of it, no.

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

**BEN GRAY:** Thank you.

**BREWER:** OK. We are still on opponents to LB1169. Come on up. Welcome to the Government Committee.

**NICK WALTER:** Good afternoon, Chairman Brewer and members of the committee. For the record, my name is Nick Walter, N-i-c-k W-a-l-t-e-r. I serve on the board of trustees of History Nebraska, representing the First Congressional District. And for the last couple of years, I've been on the finance committee. I'm in my second year on the finance subcommittee of History Nebraska. And I'm here to testify in opposition to this because of our, and I'm going to steal phrasing from a previous testifier, our strange creature. I really liked that phrase. Our strange creature, our, our noncode agency is only 57% funded by state general fund money. 14% comes from federal grants and, and the like, and the rest is fundraising, fees, this sort of thing. And my concern is that if this becomes a code agency, that remainder will evaporate. Nobody gives donations to the Department of Insurance. Nobody leaves money in their will to DAS. So if we go to making it a code agency, pardon me, I'm very concerned that these other sources of revenue will dry up, and we've created a burden on the taxpayers of Nebraska. And I have a couple different examples of donations that have been made in the past, that I think not-- would not happen to a code agency. We got \$875,000 in ARPA funds from the city of Lincoln and Lancaster County in the last couple of years, just donations to support our mission and our museums around here, that I don't think would have happened if we were a code agency. We got \$1.9 million in private donation support for the renovation of the Ethel and Christopher J. Abbott Visitor Center, aka the Chimney Rock Visitor, Visitor Center. And just last year, we got \$54,000 from the Gilchrist Foundation to do a play about World War II history. And that's a foundation that doesn't allow submissions for applications. They seek

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you out if they're interested. So I'm very concerned and I believe the Board of Trustees is concerned, about the funding of the agency should it become a code agency, and about the burdens on the taxpayers in the state of Nebraska. The, the, the current climate of tightening belts, looking for ways to eliminate-- or create tax reduction and eliminate government expenditures. I feel like in that environment and as a taxpayer, thank you, for thinking along those lines, that this is not the best idea in the world in this environment. I see I'm out of time, so I'll stop there, and I'm willing to answer any questions.

**BREWER:** All right. Thank you for your testimony, testimony. All right. So if we, we go back and look at the issue, the donations, did they come directly to the agency or to the foundation?

**NICK WALTER:** There's a variety actually there that happens. The majority of our fundraising in terms of charitable donations comes through foundations that support us, just because they are the ones that are usually given the endowments or the donations to manage on our behalf.

**BREWER:** OK, so when a donation comes to the-- I mean, does it come to History Nebraska or does it come to the Nebraska State Historical Society Foundation? What-- when you make donations, how does, how does that--

**NICK WALTER:** Little column a, little column b. So I would say though, that the majority, to, to give you the fairest answer to your question, Chairman Brewer, is that the majority is going to come to a private foundation, usually because such moneys come encumbered with, you know, this money is for this purpose. And they want a third party to oversee that we are taking it in and using it for that purpose.

**BREWER:** OK. All right. Let's see if we don't have some questions. Questions? Senator Lowe.

**LOWE:** As far as donations coming in, to Senator Erdman's chagrin, the Game and Parks gets donations of land and things like that.

**NICK WALTER:** Correct.

**LOWE:** And they are a code agency, they're an agency under the--

**NICK WALTER:** They're a noncode agency, is my understanding.

**LOWE:** They're noncode, but yes.



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**NICK WALTER:** Yes, yes.

**LOWE:** But they're, they're still approved by the Legislature.

**NICK WALTER:** Correct.

**LOWE:** The commissioners get appointed by the Governor.

**NICK WALTER:** I do not know a lot about the-- how Game and marks is run, so I'm going to refrain from commenting outside my expertise.

**LOWE:** I believe it's the same with the Arts Council. So it'd be kind of coming into those same lines.

**NICK WALTER:** Well, I think, right now, as a noncode agency, yeah. We exist in that same space. Is that the question? Yes, that we're allowed to take private donations. We're allowed to raise our own revenue. our members you know, most of our members pay a fee every year for their membership, which comes with certain rights to the museums and, and other things. So those sources of revenue and donations are, are my concern today.

**BREWER:** How much land does the-- History Nebraska actually own and manage?

**NICK WALTER:** I do not have the number available. I can get it for you very quickly. I, I believe it's, it's a sizable amount. There's a, there's a good amount of, you know, properties and so forth that get donated to us.

**BREWER:** OK. Additional questions? Yes, Senator Halloran.

**HALLORAN:** Mr. Chairman, thank you. Thank you, Mr. Walter, for being here. This is off that subject that you, you were discussing.

**NICK WALTER:** Um-hum.

**HALLORAN:** Between 2016 and '23, about 7 years, 80 employees were dismissed or there was a turnover of 80 employees.

**NICK WALTER:** Um-hum.

**HALLORAN:** And for the size of that agency, that's pretty considerable. What's your opinion of why there was such a large turnover?

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**NICK WALTER:** Well, first off, I, like the previous testifier, have not been on the board for longer than a couple of years, so I don't want to speak with great authority to something I was not a firsthand eyewitness to. But I believe that, just going to the documented facts, I mean, some of the stuff we've talked about in the past, the, the issues, the legal issues, those are real, right? Those, those things happened. And I think that there's a, a need to, as others have suggested, you know, exercise greater institutional control, stabilize the organizational culture. It's very hard to retain employees when a director resigns suddenly under a cloud of legal charges. You have an interim director, your budget's shrinking. You know, it's very difficult as an organization. And this is something we've discussed in the board, to go out and advertise for jobs in these fields. Especially in, in the historical society, we have a variety of, I think, very specialized positions, you know, curators and, and so forth, people who have their choices of employment in many states, not just Nebraska. So that's actually been a, a very top of the mind concern for the board of trustees this year, is, is to make sure that there's that stability, issues are resolved, and the organization can start to thrive again.

**HALLORAN:** OK. Thank you.

**BREWER:** All right. Any additional questions? All right. Thank you, sir, for your testimony. All right. We are still on opponents to LB1169. [INAUDIBLE] more time. All right. Who might be here in the neutral capacity for LB1169? Come on up. Welcome to the Government Committee.

**CRAIG KUBICEK:** Good afternoon. Government, Military and Veterans Affairs Committee. For the record, my name is Craig Kubicek, C-r-a-i-g K-u-b-i-c-e-k, and I am the deputy auditor with the Nebraska Auditor of Public Accounts. Just to start, I'd like to point out our office generally does not try to get involved with positions of policy and, and those decision-making matters. However, as you are aware, we were directly involved with the case that questioned the former director in diverting funds away from History Nebraska. As some of you might know, our office follows government auditing standards with performing our audits. And so in a regular audits that we perform, similar tests are going to be performed no matter how the director was appointed, hired, or if they are a code agency or not, we're going to test similar procedures, whether those are-- how those are perceived or not. So, that being said, I wanted to just to point out, I think, some of these have been highlighted already by past testifiers. But in 2007, our

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office issued an attestation report, regarding fraud of the former deputy director. In 2013, our office again issued a report of the society, including lack of controls. In 2018, our office issued a similar report with similar findings. And then in 2022, our office issued a letter to History Nebraska alleging the former director had violated certain criminal statutes for intercepting checks intended for History Nebraska and instead, depositing them into a foundation he had control over. I'm just going to bring your attention to the handout that I, that I provided. Just go over really quick. The page one is, is the history of-- it's a request form, for funds from the Nebraska State Historical Society Foundation. Pay attention to the name of the funds. There are specific funds, agency funds that are included in there: archeology fund conservation fund. Those are funds of History Nebraska. And the specific request was for funds to offset anticipated loss of quarter 4 revenue due to COVID, and to send payments to History Nebraska. Now, if you turn to page 2, we have a copy of that check. The-- one of the checks that was issued. It was paid to the order of History Nebraska, there in the check on the top. And then we have the back of the check, which was personally endorsed by the former director, personally endorsed for a deposit into the History Nebraska Foundation as opposed to the historical or History Nebraska, the state agency. Page 3 is just a-- another check, similar check, similar example. In this case, though, somebody had stamped it pay to the order of State Historical Society. That endorsement was crossed out, and then it was personally endorsed by the former director. So I just wanted to bring those couple things to your attention. The Historical Society Foundation used some of these funds to pay the law firm of the former board president for legal services. To our office, it seemed pretty clear that these funds were requested by History Nebraska for COVID purposes and should have been deposited as such. At the History Nebraska budget hearing on March 1, 2023, the interim director explained the division-- decision to divert these funds by noting they conveyed the funds to an extremely safe place for this money to rest while they saw the pandemic play out. She went on to note that History Nebraska Foundation was a new entity at the time, and they started using the funds, History Nebraska Foundation started using the funds. Our office would question why they would be putting funds in account to rest, but then turn around and use those funds at the same time. It would seem contradictory to do so. The former director was charged with theft by deception on June 16, 2023, and that case is still ongoing. And so, in conclusion, Auditor Foley and our office appreciate those parties involved who are concerned with ensuring there is an active approach to audit findings, and looking at

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possible solutions or controls to add oversight over these agencies. Thank you for your time today, and I will be open for any questions the committee may have.

**BREWER:** All right. Thank you for your testimony. I could have stopped and started you, but you were on a roll and I didn't want to break it. So if I take the two checks and add them together, \$595,852.34. So in a period of, because the first check is dated 06/24/2020, second one, 07/07/2020. So literally, in a matter of a month the 2 combined, there was almost \$600,000?

**CRAIG KUBICEK:** Two-- about \$270,000. It's-- the 1 check's only \$325.

**BREWER:** Oh, I had digits off here.

**CRAIG KUBICEK:** Yeah.

**BREWER:** Well, that makes it-- well, that's-- it still doesn't make it good. It's better.

**CRAIG KUBICEK:** Yeah. It was, it was like a dividend check.

**BREWER:** Ah, that. Well, that makes more sense.

**CRAIG KUBICEK:** So they had requested the full balance. And so it was, it was like the remaining funds that were in that account.

**BREWER:** Got it. All right, let's see if we got questions for you. Questions? Questions. All right. Thank you for your testimony.

**CRAIG KUBICEK:** Thank you.

**BREWER:** And this. All right. Any additional neutral for LB1169. Seeing none, we will invite Senator Erdman to come up and close. And read into the official record, we have 4 proponents, 18 opponents, 0 in the neutral. With that, Senator Erdman, please close on LB1169.

**ERDMAN:** Thank you, Colonel Brewer. I know it was-- it would have been inappropriate, but I wanted to clap after you spoke to General Lempke. I appreciated that. So Director Gray-- or Board member Gray said that the things that were said here were hearsay. I think that when you say General Lempke is speaking hearsay, that may be a false statement. I think that those other testifiers weren't saying what they thought was hearsay, but facts. So when Mr. Walter came up, he indicated that the donations would cease to come in because we made him a code agency.

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That's hearsay. He has no clue or no idea how to prove that. General Lempke mentioned that the found-- the Historical Society Foundation is there to raise money. They will raise money for the History Nebraska or the Historical Society whether it's a code agency or not. Senator Halloran asked the question, why did 80 people leave? I think Mrs. Drake explained why 80 people left. It's pretty simple. Pretty straightforward. The testimony today is more than enough proof, more than enough proof to answer any questions as to why we should move forward in making this a code agency. It has been told to me that many at the Historical Society now believe that Erdman has one year left. He's going to be termed out. Don't worry about this. This is going nowhere. He's going to be gone and people will forget this. Well, I got some bad news for those people. I'm considering making this my priority bill. This is a very significant issue, significant enough that I may consider making it my priority. We need to make this agency accountable to not only those taxpayers, the taxpayers who contribute money, but also those who make donations. And I think General Lempke explained very well what needs to happen. And when you have people like him and others and the historians, historians that wrote books about the history of Nebraska come in and tell you their concerns about what's going on, we need to pay attention to that. And so I would ask that you advance this, because I am very much-- I am very serious about making this my priority bill. I got one other bill that I'm considering and if it gets out of committee, it's going to be a hard decision for me. But this is a significant enough bill. That's my thought. Thank you.

**BREWER:** Thank you. Let's see if we have any questions for you or we'll let you go. Questions for Senator Erdman? Yes, Senator Conrad.

**CONRAD:** Thank you. Thank you so much, Chair. And thank you. Senator Erdman. It's helpful to know that this really rises to the, to the top of your list in consideration for your priority bills. And I'm sorry if you covered this in your closing. I just had to step out for a family matter for a minute. But, since you indicated that you were thinking about prioritizing this, I, I just want to be as clear and direct as I can so I know that what we're dealing with here. I don't think you'll have any disagreement that everyone wants to be good stewards of our history, public resources. You know, I'm, I'm still trying to figure out whether or not this shift in classification of agency is the right remedy to accomplish that, but I'm thinking through the pros and cons of that. But let me just ask it really directly. I, I-- I'm not interested in rewading or wading into some sort of culture war battles about battling whatever wokeness or

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anti-wokenesses or whatever. I, I, I think that that would be a distraction to a lot of the issues that we've been working in a really civil and collaborative way on together this, this legislative session so far. And it, it, it popped up in the testimony here. If this is brought in retaliation for viewpoints that you find distasteful, that would be impermissible and that would be inappropriate. If this is truly about dollars and cents, different story. So I want to give you a chance to respond to it, because I want to know what I'm dealing with. And I know you're a straight shooter and you'll tell me.

**ERDMAN:** And I appreciate that.

**CONRAD:** I -- because you won't hide the bomb.

**ERDMAN:** I didn't, I didn't bring that up.

**CONRAD:** OK.

**ERDMAN:** That wasn't, that wasn't what I thought. But--

**CONRAD:** OK.

**ERDMAN:** --let me just say this. That if you go to History Nebraska today, over there and do a view, and I haven't been there this year, but they're not distributing and displaying the information that needs to be done there. This, this agency, this, this group needs help.

**CONRAD:** OK.

**ERDMAN:** And the only way I see to get that done is to make it a code agency. And hopefully, someone next year will make Game and Parks a code agency.

**CONRAD:** Very good.

**ERDMAN:** Had to throw that in there.

**CONRAD:** No, I, I wouldn't-- I would expect nothing less and I thank you for your candor. Thank you.

**ERDMAN:** But let me, let me speak a little bit about Game and Parks, because you brought it up. The difference--

**CONRAD:** I think this witness is [INAUDIBLE].

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**ERDMAN:** --the difference-- here's the total difference between History Nebraska and Game and Parks. All those commissioners are appointed and confirmed--

**CONRAD:** That's true.

**ERDMAN:** --by the Legislature and they're not in History Nebraska. That's, that's a big difference.

**CONRAD:** Great point. Great point. Thank you.

**BREWER:** All right. Any additional questions for Senator Erdman?

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

**ERDMAN:** Cool. Thank you very much for your time.

**BREWER:** And let's see. We read in, we read in our letters. All right. We have been at this going on 3 straight hours. We're going to take a 10-minute break. So, 20 minutes after, we will reset and start on LB887.

**SANDERS:** Senator Brewer, the floor is yours.

**BREWER:** All right. Good afternoon. Thank you, Vice Chair Sanders and members of the Government Committee. My name is Senator Tom Brewer, T-o-m B-r-e-w-e-r. I'm here to open up on LB887, which would create a security grant program for nonprofit organizations in Nebraska. Eligible nonprofit organizations would include houses of worship and other nonprofits. They're at risk of being targeted for hate crimes or violence-- violent attacks because of their particular beliefs or mission. 15 other states have a grant-like program very similar to the one that we're proposing with LB887. The federal government also has a similar program. The, the purpose of this bill is to compete with the federal program and help organizations that may fall into the cracks. Let's talk a little about what that, that falling into is. Of the churches and other houses of worship that apply for these federal grants, only about half of them are determined to be eligible. Many others do not apply, simply because of the federal requirements. And those requirements are a upfront investment, and then normally a long wait for reimbursement. Smaller congregations just cannot afford to participate in, in that federal gro-- program. So for obvious reasons, if you have to put a, a lot of money up front to get the grant and then have a long period of time before you can get a reimbursement, it becomes unmanageable if you're not at a level you can, can afford

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those things. So what LB887 proposes is the state grant would fill in where the federal grant is, is not provided. The grants would award a cap of, of \$500,000, and no single organization would be eligible to receive more than \$100,000 of that. After I introduced the bill, some of the different organizations reached out and asked for us to look at some clarifications on the issue of eligibility. That is the amendment that's been handed out here, AM2283. So you have that. This amendment would make it clear that the grant program would be open to both organizations that were turned down by the federal grant and organizations that could not apply due to some of the hardship that we've talked about. Following me, I believe I'll have a representative from Congressman Bacon's office to talk about the federal program. And I believe there are also representatives that will be here to talk about some of the effects of the non-- on the nonprofits and why this legislation is necessary. With that, I thank you for your time and be happy to answer any questions.

**SANDERS:** Thank you, Senator Brewer. Are there any questions from the Legislature? I see none. Thank--

**BREWER:** And I'll stick around for close.

**SANDERS:** --thank you. Are there any proponents on LB887? Welcome.

**JAMES WRIGHT:** Thank you. My name is James Wright. I am the district director for Congressman Don Bacon, and I'm here speaking on his behalf. My name is spelled J-a-m-e-s, last name is W-r-i-g-h-t. And I will proceed with a letter from Congressman Bacon. I will-- you have copies of the letter. I will read excerpts in the interest of time. Dear Chair Brewer, Vice Chair Sanders, members of the Government, Military and Veterans Affairs Committee. I write to you today in strong support of Senator Brewer's LB887. This-- the funds authorized by LB887 will be eligible by a grant to eligible Nebraska nonprofits. This grant will be particularly important for Nebraska synagogues and Jewish communities, as well as other houses of worship. It is an unfortunate truth that we are living in an era of unprecedented rise of anti-Semitic incidents. In the last quarter of 2023, according to the Anti-Defamation League, the United States saw 2,031 cases of anti-Semitism. This is a 337% increase over the same time in 2022. This includes 40 instances of physical assault on members of the Jewish community, 337 incidents of vandalism, and 749 incidents of verbal and written harassments. Even my chief of staff directly witnessed this rise in anti-Semitism when he was recently the guest at a congregation in Omaha. An individual appeared at the door and began



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tossing out threats and slurs in the presence of families and children. By passing LB887, our Nebraska Jewish community, as well as many other communities, can rest a bit easier knowing they are better protected from hate. During my time in the U.S. House of Representatives, I have worked to pass legislation similar to LB887 that would protect our nonprofits and religious communities. In the 116th Congress, I worked with my bipartisan colleagues to pass through Congress and get signed by the president, Public Law Number 116-108. This law established the Federal Emergency Management Agency, a nonprofit security grant program for eligible nonprofits for target hardening and security enhancements to nonprofit organizations. Shortly after the October 7, 2023 Hamas attack on Israel, I joined many of my colleagues in both the House and Senate in sending a letter to the Secretary of Homeland Security and director of the Federal Bureau of Investigation to express our concern in the rise of anti-Semitic threats and to prioritize prevention of anti-Semitic violence. In this time of escalated anti-Semitism, our government and law enforcement must be heightened-- must be at heightened vigilance to protect our Jewish citizens and other community members. As elected officials, we all owe it to our constituents to ensure they are allowed to worship their own God in peace.

**SANDERS:** Thank you, Mr. Wright. I allow you to go-- continue. Please.

**JAMES WRIGHT:** Thank you. Senator Brewer's LB887 goes a long way in making the goal-- making that goal become reality in Nebraska. I thank the Government, Military and Veterans Affairs Committee for your careful consideration of this bill, and I thank you for your leadership in the 108th Nebraska Legislature. Sincerely, Donald J. Bacon, member of Congress.

**SANDERS:** Thank you, Mr. Wright, for coming down today-- I know you're really busy-- to read that letter. We greatly appreciate it. Let me check to see if there are any questions from the Legislature. Are there any questions? Seeing none--

**JAMES WRIGHT:** Thank you for your time.

**SANDERS:** --thank you very much.

**JAMES WRIGHT:** Appreciate you.

**SANDERS:** Are there any other proponents?

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**HARMON MAPLES:** Thank you, Mr. Wright, for the introduction. My name is Harmon Maples, H-a-r-m-o-n M-a-p-l-e-- sure.

**SANDERS:** I need you speaking to the microphone for the record, please.

**HARMON MAPLES:** All right. We good now?

**SANDERS:** Yes.

**HARMON MAPLES:** OK. Harman Maples, H-a-r-m-o-n M-a-p-l-e-s, and I'm the Nebraska community engagement manager for the Anti-Defamation League in our Chicago regional office. ADL is a 110-year-old organization whose mission is to stop the defamation of the Jewish people and secure justice and fair treatment to all. ADL is a world leader in countering hatred and extremism in all forms and has organizational expertise around the need to protect vulnerable communities and institutions. The faith community at large has found itself increasingly under a threat and violent attack in Nebraska, the United States, and around the world. In fact, it is estimated that at least 617 worshipers were killed at houses of worship in the U.S. between 1999 and 2019. This includes the single deadliest anti-Jewish attack in U.S. history at the Tree of Life Synagogue in Pittsburgh in 2018, the murder of 9 members of Mother Emanuel Church in Charleston in 2015, and the murder of 6 members of the Sikh Temple in Oak Creek, Wisconsin in 2012. Although not a deadly attack, the hostage situation at the synagogue in Colleyville, Texas in 2022, serves as another stark reminder of the threats faith communities face. The problem isn't unique to minority religious groups or marginalized communities, because between 2020 and 2022, American churches experienced 19 fatal shootings. In Nebraska, the number of anti-Jewish incidents recorded by ADL has grown dramatically. According to our '22 audit incidents, there's been 180% reported growth of vandalism, harassment, and assault targeting Jewish institutions and individuals in Nebraska. The problem many congregations face is that the necessary security precautions is often cost prohibitive. Security measures fall generally to 3 categories: training, hardening and facilities, and security staff. While there are good training resources available, there are very real costs associated with other 2 prongs of protecting houses of worship, from the installation of security cameras and alarm systems to bollards extended to prevent a car from driving into congregants gathering at the entrance or exit, or to shatter-resistant film on windows to adequate fire mitigation or cybersecurity. There are a wide range of needs that each faith institution must consider in addressing its security needs. LB887 provides critical resources to

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assist institutions in funding their security improvement. The bill recognizes the unique vulnerability shared by the entire faith community and it recognizes that enhancing the safety and security of faith institutions and nonprofit organizations improves overall public safety when its places are less vulnerable to a deadly attack. In addition, serving as places of prayer, many of our religious institutions house schools, daycare centers, and nonprofit organizations. And for these reasons, we support this legislation. Any questions?

**SANDERS:** Thank you very much for your testimony. Are there any questions? Seeing none, thank you very much.

**HARMON MAPLES:** Thank you.

**SANDERS:** Are there other proponents? Welcome.

**SHARON BRODKEY:** Thank you. Thank you, Vice Chair and members of the committee. Good afternoon. I am Sharon Brodkey. I'm the executive director of the Jewish Community Relations Council of the Jewish Federation of Omaha. And I'm here today to urge you to support LB887. LB887 establishes a state-funded and administered nonprofit security grant program, or NSGP, to provide funding for safety and security projects to nonprofit organizations that are at a high risk of terrorist attack or at risk of hate crimes or attacks because of the nonprofit's beliefs or missions.

**SANDERS:** Sharon--

**SHARON BRODKEY:** According--

**SANDERS:** Excuse me, could you spell your name [INAUDIBLE] again?

**SHARON BRODKEY:** I'm sorry. S-h-a-r-o-n B-r-o-d-k-e-y.

**SANDERS:** Thank you.

**SHARON BRODKEY:** Thank you. According to the Nebraska Emergency Management Agency, or NEMA, that administers the federal grants, funding from 2018 to 2023, grants were awarded only to half of the applicants. There were 94 in Nebraska. \$10.3 million was requested, \$5.5 million was awarded. And this is out of a \$945 million program so far. That's before the 2024 goes into effect. That's a very meager 0.58% of the federal NSGP dollars available. Applying for a federal grant is very intimidating. It requires bandwidth, human resources,

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experience, time, and financial resources that many nonprofits don't have. And they have to spend tens of thousands of dollars, sometimes north of \$100,000, with the hope that they'll get the grant money from the federal NSGP program. And as we've seen from the numbers, 50% of the Nebraska nonprofits that requested assistance didn't get the funds they were hoping for and so desperately need. As a director of a nonprofit who has a somewhat public profile, and particularly as a Jew in this period and climate of virulent anti-Semitism that has reached record levels not seen since the Holocaust, I can tell you what keeps me up at night, especially because I work on a campus that serves more than 1,500 unique visitors per day, Jewish and non-Jewish, from infancy to end of life. I am blessed to work for an agency that has the resources dedicated to keeping our agencies, staff, volunteers, little ones, school children and our most vulnerable elderly residents safe. Among the nonprofits whose grant applications have been denied are regional hospitals and health centers, faith-based schools across all major denominations of Christianity, and rural community centers and nonprofits that serve specific ethnic and refugee populations. We in the Jewish community understand that if some of us aren't safe, none of us are safe. LB887 will provide state support where federal-- where federal funding is not accessible or provided, particularly for those Nebraska nonprofits that cannot or simply do not apply to the federal program due to resource issues. The Nebraska program is modeled after similar programs in Arizona, Connecticut, Minnesota, New Jersey, and Pennsylvania. We wish to thank Chairman Brewer for introducing this critical legislation and Senator Raybould's office for assisting with the Nebraska-specific research that we've provided. Thank you, members of the Committee, for your consideration, and we hope you will support LB887. I'm happy to answer any questions you may have.

**SANDERS:** Thank you very much for your testimony. See if there are any questions. I see none. Thank you very much.

**SHARON BRODKEY:** Thank you.

**SANDERS:** Are there others-- proponents? Welcome.

**TOM VENZOR:** Hello. Well, Vice Chairwoman Sanders and members of the Government, Military and Veterans Affairs Committee, my name is Tom Venzor, T-o-m V-e-n-z-o-r. I'm the executive director of the Nebraska Catholic Conference. Just over 3 years ago, the US Conference of Catholic Bishops began tracking arson, vandalism, and other destruction of Catholic locations across the U.S. Since that time, at

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least 309 incidents have occurred across 43 states and the District of Columbia. These tragic acts of violence include arson, statues beheaded, limbs cut, smashed and painted, gravestones defaced with swastikas and anti-Catholic language and American flags next to them burned, and other destruction and vandalism. The Catholic Church in Nebraska has been no stranger to similar incidents. Just last April, St. Paulinus in Syracuse had their altar overturned, in addition to having statues and other religious objects broken. Sadly, this incident happened during the church's most solemn week of the year, Holy Week. As the pastor, Father Ryan Salisbury noted, Christ's own journey was marked by injustice, by brokenness, and by damage done to his own body, and that was allowed to happen here in Syracuse in some ways. In December 2022, the University of Nebraska-Omaha Catholic Newman Center, a place where Catholic college students reside and join together in community for fellowship and worship, experienced a death threat because of its pro-life witness for babies and mothers in need. As a Newman Center pastor, Father Dan Andrews noted, this obviously causes this great concern, and our number one priority is safety of our students. And then also, one individual, who was going to share some stories earlier but had to leave to get back to work, but he was going to share, also, his situation at the cathedral here in Lincoln, around the time after the overturning of Roe v. Wade and with some of the pro-life legislation that we're doing here at the, at the Legislature. They were experiencing ongoing, basically, harassment every Sunday, week in, week out, for months on end, and sort of the vile behaviors that were going on outside of the Cathedral, you know, as kids were walking into mass, elderly people were coming into mass. That occurred there as well. So that was a story he was going to share, but couldn't. Stated by one Bishop, these are not mere property crimes. This is a degradation of visible representations of our Catholic faith, and these are acts of hate. Unfortunately, these attacks are not reserved to Catholics, but extend to other religious communities, including Jewish, Muslim and Sikh communities, in addition to any number of nonreligious secular groups and organizations. As Senator Murman noted in a statement responding to the UNO Newman Center death threat, Nebraskans deserve to be free from the threat of politically motivated terror. So we appreciate what Senator Brewer has done here with LB887, and we would encourage you all to advance this to General File. And thank you for your time and consideration.

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**SANDERS:** Thank you for your fast testimony. You're right on target. Are there any questions for Mr. Venzor? Seeing none, thank you very much.

**TOM VENZOR:** All right. Appreciate it. Thank you.

**SANDERS:** Are there any other proponents? Good afternoon. Welcome.

**ABBI SWATSWORTH:** Thank you. Thank you, Senators of the Government, Military and Veterans Affairs Committee for the opportunity to provide testimony. My name is Abbi Swatsworth, A-b-b-i S-w-a-t-s-w-o-r-t-h. I'm the executive director of OutNebraska, a statewide, nonpartisan nonprofit working to celebrate and empower LGBTQ-plus Nebraskans. OutNebraska speaks today in support of LB887. Thank you, Senator Brewer, for your thoughtful pursuit of this vital legislation that can make our Nebraska communities safer. As a leader in the LGBTQ-plus community, we have been directly impacted by violence toward our programs and, and activities. Further, we've witnessed threats at other LGBTQ-plus activities in communities across the state. The Nebraska Nonprofit Security Grant Program would allow our organization and other nonprofit organizations facing violence to request assistance in addressing our security needs, and make all of our communities safer. Despite Nebraska's reputation as a friendly state, there are people determined to pursue violence in an effort to derail programs that serve youth, families and adults within the LGBTQ-plus community. In 2023, several credible bomb threats were directed toward our community events and event organizers. These threats resulted in thousands of dollars of security upgrades for the organization hosting the activity, including the purchase and installation of cameras, bullet-resistant glass, software to protect staff identities, and more. During 2023, OutNebraska also took steps to protect our staff by relocating to a locked office space in response to previous threats. This budgetary consideration impacts our ability to expand programs, and we would much rather dedicate our budget to community activities versus office overhead. While we do not know what the future holds in regards to security issues, I do not doubt that we will continue to face credible threats to our safety because of the work that we do. I can say that if this legislation had existed earlier, we could have benefited from security training following a particularly scary situation directed at me as the organizational leader, as we advocated for Nebraska's young people. For these and other reasons, and in partnership with numerous religious and cultural organizations, we respectfully encourage the committee to advance this vital bill. Thank you.

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**SANDERS:** You did that right on time. Thank you very much. Are there any questions for Abbi Swatsworth?

**ABBI SWATSWORTH:** Thank you.

**SANDERS:** I see none. Thank you for your testimony.

**ABBI SWATSWORTH:** Thank you.

**SANDERS:** Are there any other proponent-- yes. Welcome.

**ANDREW DOMINGUEZ FARIAS:** Howdy, y'all. Hello, Government, Military and Veterans Affairs Committee members. My name is Andrew Dominguez Farias, A-n-d-r-e-w D-o-m-i-n-g-u-e-z F-a-r-i-a-s, and I am the policy fellow with the Asian Community and Cultural Center here in Lincoln. And today, we are testifying in support of LB887. The Asian Center is a nonprofit organization that supports and empowers all refugees and immigrants through programs and services. At the same time, we strive to advance the sharing of Asian culture and every cultural heritage of our clients with the community at large. For our Asian American clients, community members, and staff, they have anecdotally reported encountering anti-Asian sentiments, especially following the COVID-19 pandemic. They have experienced troubling comments out and about at grocery stores and at schools, including being spit on and called racial slurs. One of the most recent prominent harms that happened to the Asian American community in the United States was the 2021 Atlanta spa shootings, which killed 8 people. Some have worried that these sentiments will follow them to the Asian Center, where we currently lack the infrastructure for safety planning, equipment and training. LB887 would alleviate many concerns of our staff and community members by providing funding and safety for security projects to nonprofit organizations like ours, who are at high risk of hate crimes or attacks because of our missions or beliefs. We also want to emphasize the importance of other cultural organi-- organizations across the state of Nebraska having access to these funds, too. Our organization sees tremendous opportunity in the ability of cultural centers, religious entities, and community centers to adequately ensure the safety of those who use their organization's services. This state funding source will fill the gaps where federal funding might fall short. We want to ensure that all people feel welcome in Nebraska, and that often starts with the safety and security of spaces where they are able to congregate and build community. Therefore, we urge the committee to advance LB887 to General File. Thank you.

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**SANDERS:** Thank you. Are there any questions for Andrew Farias? I see none. Thank you very much for your testimony. Are there any other proponents? Are there any opponents? Anyone in the neutral? Welcome.

**KEITH KOLLASCH:** Good afternoon. Good afternoon, Senator Sanders and members of the Government, Military and Veterans Affairs Committee. I am Keith Kollasch, K-e-i-t-h K-o-l-l-a-s-c-h, legal counsel for the Nebraska Emergency Management Agency, or NEMA. Thank you for the opportunity to participate in this hearing regarding LB887 in a neutral capacity. The Ne-- the Nebraska Nonprofit Security Grant Program would allow qualified Nebraska nonprofits that were unable to receive a grant from the federal program the ability to address their security concerns, concerns through the Nebraska grant program. NEMA takes seriously, security threats to the citizens of Nebraska. Since there is no state program like the current federal grant program, NEMA will have to create the rules and regulations required to manage the new grant program. In addition, an additional position within NEMA would also be created to administer this program. The fiscal note recognizes this and the nearly 20% impact it would have on the available grant funds. There are a few questions NEMA would like to draw your attention to, which may require additional guidance from the Legislature. Section 2(5)(b), regarding what qualifies as a nonprofit organization, states at high risk of a terrorist attack or at risk for hate crimes or attacks because of the nonprofit organization's ideology, beliefs, or mission. That appears to be a subjective standard, even though-- even with a threat or a vulnerability assessment included by the nonprofit. Outside of verified threats, I'm not sure how NEMA can make that determination. Section 2(5)(c) states that nonprofit-- nonprofits that have been unable to apply for a federal nonprofit security grant due to an inability to fund their request up front and wait for reimbursement. Although not specifically stated in the operative section of the bill, this appears to indicate that the qualified nonprofits would be able to receive funds from the grant program upfront rather than through the typical system of reimbursement. No federal grant administered, administered by NEMA works on an advance payment system. Even in federal reimbursement-based programs, getting all the supporting invoices and receipts is difficult. In an advance payment program, program, validating such expenditures will be much more difficult, resulting in problems for NEMA during audits. Another concern is determining who would make the ultimate decision regarding what nonprofits are picked for the grants when there is not enough funding for all qualified nonprofits. I can expand this further-- this issue further if there--



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through questionings of the committee, if you'd like a more in-depth explanation. The point of addressing these concerns is, is not that NEMA does not support LB887, but that NEMA wants to ensure that the legislation that comes out of the committee is not arbitrary nor capricious. As we have seen at-- before at several levels of government, if an agency is not given specific enough guidelines when creating rules and regulations required by statute, the legislative intent may not be fully realized, and a good idea such as LB887 is not managed as the Legislature envisioned. NEMA believes that the Nebraska Nonprofit Security Grant Program is important legislation which helps ensure the safety of vulnerable nonprofits and, by extension, the citizens of Nebraska. That concludes my testimony. I'd be glad to answer any questions.

**SANDERS:** Thank you very much for your testimony. If you'd like to expand on those ideas to make this a better bill, please do so.

**KEITH KOLLASCH:** Right. One of the issues is just making the determination and the ranking on who gets the money. Obviously, there are-- just with the amount of people that actually are not granted the federal grant money, the, the people that are left over from that, if they all apply for the \$500,000-- well, actually, with the fiscal note, it'd be actually about \$410,000 that is available for grants. We'd be in a position where there wouldn't be enough money, so there's going to be some people that are going to be left out. The way FEMA does it with the federal system is they give us a set of, I guess, grading criteria that they go by. We have employees with NEMA that will rank, rank the, the different applicants, return that to FEMA, and ultimately, they're the ones that make the decision. From what I understand, sometimes they use our ranking, sometimes they don't. It's completely arbitrary when it gets to their level on how it actually gets decided. Our concern is we make the rankings. We make the decisions. There's no, no, I guess, stop gap in between there, as far as it's, it's all the same people making the same decision on who gets it. And then, of course, the ones that don't get it, they'll be calling us. Why didn't we get it? And then their next call will be to the state senators. Why didn't we get it? So we just want to have some guidance to be able to know how to rank them. We don't want to make it arbitrary. Again, a lot of-- even on the federal side of it, it's a very subject-- subjective standards that they use. Their, their criteria is very subjective. When-- we'll have several people score them, and they all come up with different scores. So it is a pretty subjective standard on it. So we just want to make sure we have the correct guidance.

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**SANDERS:** OK. Thank you. Are there any-- are there any questions?  
Senator Lowe.

**LOWE:** Thank you. And thanks for testifying today. How many office  
staff does NEMA have?

**KEITH KOLLASCH:** Total? Well, we have a-- several empty positions that  
we're trying to get filled. But I believe we're mid-50s, if I recall  
correctly.

**LOWE:** And so you would need 1 more to app-- to make this applicable?

**KEITH KOLLASCH:** Yes. All the NEMA positions are funded through federal  
grants. So since this would be a state program, we can't use somebody  
that is being funded by the federal government to-- through federal  
grant to administer this program. It would have to be someone through  
the state.

**LOWE:** All right.

**SANDERS:** Are there any other questions? I see none. Thank you very  
much for your testimony.

**KEITH KOLLASCH:** Thank you.

**SANDERS:** Are there any others in the neutral? I see none. We'll go to  
close. Senator Brewer. Position statement-- summary statement report,  
proponents, 3, opponents, 1, and 0 neutral.

**BREWER:** All right. Well. I want to start by thanking everybody that  
came in, especially the ones that have, have endured the entire day of  
all the other stuff you did not come here for, but you stuck it out  
and you, you, you came to testify. And I, I appreciate that you did  
that. You can tell by testimony, this is an area where we really need  
to fill the void, because if there's a threat and we're not doing  
anything to try and help, then, then shame on us. As far as the issues  
that NEMA brought up, we had a chance to talk just briefly, I think we  
can probably take a look at, at a criteria as far as the, the needs,  
whether it be the threat or the size of congregation or size of group  
as far as a nonprofit, and the amount of activity they have and the--  
and a level of threat and maybe come up with a formula, where we can  
take those that have the most risk and make sure they're covered  
first, and then see how far the money goes. So I think we got a  
solution to that. It would mean a-- an amendment. But I'll get with  
Dick Clark and we'll figure out how to do that, so that we have that

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covered. But, again, I think if you look at what it's trying to do, there, there is a need. We just need to figure out how to fill that need. Any questions?

**SANDERS:** Are there any questions?

**BREWER:** All right.

**SANDERS:** Seeing none, thank you, Senator Brewer. This now closes the hearing on LB887. And we will go into Executive Session.