

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government Committee January 31, 2019

BREWER: Good afternoon, ladies and gentlemen. Welcome to the Government, Military and Veterans Affairs Committee. My name is Tom Brewer. I represent the 43rd Legislative District and I am the Chair of this committee. We have our committee members here today. The one exception is Senator Hilgers has notified me he is out of town today. So we will begin with introductions on my right.

BLOOD: Senator Carol Blood, I represent District 3, which is western Bellevue and southeastern Papillion, Nebraska.

LOWE: John Lowe, District 37, which is the southeast half of Buffalo County.

La GRONE: Andrew La Grone, Gretna and northwest Sarpy County.

M. HANSEN: Matt Hansen, District 26, northeast Lincoln.

KOLOWSKI: Rick Kolowski, District 31 in southwest Omaha.

HUNT: Hi, everyone. I'm Megan Hunt and I represent District 8, which includes the neighborhoods of Dundee and Benson in Midtown Omaha.

BREWER: Dick Clark will be my legislative counsel and Julie Condon is our committee clerk. And then we have two pages. Kaci, raise your hand, and Preston. They'll be the ones you're handing materials to. Today we are going to have the following four bills: LB406; LB505; LB189; and LB373. With that said, some formalities we need to run through. If you have a cell phone, please mute it-- or other electronic devices. Your record of attendance can be registered on the white sheet at the table. If you intend to testify, please fill out one of the green testifier sheets and have it available to give to the page when you come forward. If you wish to record your presence and go on the record you may also fill out a green sheet and give it to the page. Passing out of materials, we ask that you provide 12 copies. If you do not have 12, please notify the page and they can burn additional copies. I would ask those that are going to testify to come to the front of the room, but that might be a little difficult today. Last, that when you come forward to testify that you state your name and then spell it. Because of the number of individuals that will be testifying today we're going to use a three-minute rule. So you'll get a green light, three minutes. It will go to amber and after one minute of the amber light it will turn red and then you're ceasing your discussions. If you wish to have materials that go in the official

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record-- and this has been one that we've kind of had to work through-- it needs to be submitted, whether it be e-mail or formal mail, by 5 o'clock the day prior, to the committee clerk. And it needs to state on it that you wish to have it entered into the record. This may come as a shock, but we get large volumes of mail and a lot of it will just simply say, support this or don't support this. I cannot share e-mails where it is not stated in there that you wish to have it go into the official record. And then the last thing is, for those testifying, understand that our job as senators is to collect information, to ask questions to better understand the particular issue or bill in question, and we will do that and be respectful. If not, I will make that on-the-spot correction. With that said, our first bill today will be LB406, Senator Gragert. Welcome to the Government, Military, and Veterans Affairs Committee. This is your first time in here, correct?

GRAGERT: Yes, sir.

BREWER: All right. Don't mess it up.

GRAGERT: All right. Chairman Brewer, members of the Government, Military and Veterans Affairs Committee. I am Senator Tim Gragert, spelled T-i-m G-r-a-g-e-r-t. I represent the Legislative District 40 and I am here today to introduce LB406. LB406 is a cleanup bill for the Unclaimed Property Division of the State Treasurer Office. The bill is meant to update our statutes in order to put Nebraska in line with other states' unclaimed property divisions and ensure claimants receive all unclaimed property rightfully due to them when filing a claim. LB406 makes seven changes that I will outline. One, current law allows holders of unclaimed property to aggregate funds of less than \$25. LB406 removes this practice and requires a detailed listing of the owners' names and address for all items reported. Two, the Treasurer's Office is required to publish in Nebraska newspapers the names of all owners reported with \$25 or more of unclaimed property. This bill will increase the amount to \$50. After surveying other states' unclaimed property divisions all responses were that they publish names at higher amounts than the current level of \$25 in Nebraska. Owners of property less than \$50 would still be able to search their name on the Web site and file claims there. The Treasurer's Office is also required to mail notices to owners when proper address is reported with the amount. These letters are currently required for all properties of \$25 or more. This legislation moves that requirement to properties of \$50 or more. Properties less

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than \$50 will still be published for claims on the Web site, but the expense of mailing letters or publishing in the newspaper would only occur at properties of more than 50-- \$50 or greater. Four, when a number of life insurance companies demutualized in the early 2000s, the unclaimed mutualization proceeds were deposited into separate trust fund created by Nebraska Legislature. This legislation will consolidate the demutualization trust fund into the Unclaimed Property Escheat Trust Fund. Five, at the end of page 7, LB406 removes the language for transfers that are no longer occurring as they have been fulfilled as defined within the statute. Six, an annual fund transfer is made to permanent school funds from the Unclaimed Property Escheat Trust Fund. Current law is that all funds in excess of \$500,000 are to be transferred. The change being made in this bill is to bring that amount of funds up in excess of \$1 million. The Unclaimed Property Division pays enough high dollar claims that it is prudent not to allow the fund to get down to a balance low enough that there could potentially be claims approved for payment and then-- more claims approved for payment than the funds available to pay them. Seven, requests to escheat property early are required to be approved by the Treasurer himself. The addition of the words "his or her designee" will allow the review to be-- of an early escheat request to be delegated to a member of the Treasurer's staff. Since the introduction of this bill it has been brought to my attention that one change the Treasurer's Office needed was accidentally omitted from the bill. AM52 clarifies two conflicting sentences in the statute and brings both statutes in line with the practice of the previous State Treasurers. I understand there is some concern regarding the removal of the practice of aggregating properties under \$25. I'm willing to work with the committee to reconcile this issue in order to move LB406 forward. I'd be happy to answer any questions. However, Meaghan Aguirre, the division head of the Unclaimed Property, will be testifying next and she is the expert in this field. That's all I have. Thank you. I'd be open to any questions.

BREWER: All right. Senator Gragert, thanks for your testimony on LB406. With that said and the experts coming, any questions for Senator Gragert? Yes, sir.

KOLOWSKI: Just to start with-- Mr. Chairman, thank you. Senator, do you know approximately how much is sought in returns on a yearly average in the last five years, for example?

GRAGERT: No, sir. I'll leave that to Meaghan.

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KOLOWSKI: That's fine. Thank you.

BREWER: All right. Any additional questions? Oh, yes. Senator Hunt.

HUNT: Thank you, Senator Brewer. Hello, Senator Gragert. Did the State Treasurer bring you this bill or is this something that you saw a need for?

GRAGERT: No, the State Treasurer requested this bill.

HUNT: OK. So I understand that this increases the property amount to \$50 dollars from \$25 to get a notice by mail or to get published in the newspaper. When's the last time that amount was increased in Nebraska?

GRAGERT: I think that was back in 1992 or so. Excuse me, that was-- 1992 is the last time the \$500,000-- I'll let, I'll let Meaghan answer that.

HUNT: OK. Thank you so much, Senator.

GRAGERT: It's been a long-- I know it's been a long time.

HUNT: Thank you.

BREWER: All right. Any additional questions? Will you stick around for closing?

GRAGERT: I will.

BREWER: All right. Thank you for your testimony. All right. The next testifier for LB406, somebody who's an expert. There we go. Welcome to the Government, Military and Veterans Affairs Committee.

MEAGHAN AGUIRRE: Thank you.

BREWER: You may begin whenever you're ready.

MEAGHAN AGUIRRE: Well, my name is Meaghan Aguirre, that's M-e-a-g-h-a-n A-g-u-i-r-r-e, and I am the Director of the Unclaimed Property Division. First, I'd like to thank Senator Gragert for introducing this bill on behalf of our office. Senator Gragert did a good job of laying out what the bill does. And I was just hoping today to provide a little extra context as to why these changes are needed. I'll try to summarize my remarks a little from what I intended because I do know that you're trying to be mindful of the time here. But in

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short the aggregation of properties which is remitting all items at \$25 and less as one lump sum item on a report, we feel it was originally reasonable when it was written into the unclaimed property statutes. But with electronic reporting today we would much prefer to get full detail on all items so that they're loaded in our system, searchable, and claimable by the owners. It allows for better recordkeeping and it will also allow for more money to be returned to the rightful owners. The annual tabloid in Nebraska newspapers is a great way to create awareness of our program. But we just feel that publishing it down to \$25 on a statewide basis is not the most cost effective way of returning unclaimed property in 2019. The same with the owner letter notices. Those are also mailed out. Just a letter when an address is reported. We send out a notice by mail to those owners letting them know that they have money in unclaimed property. That is something that no other states-- my counterparts in other states necessarily do, but when they do it's typically at a higher-- higher amount than the \$25 amount. And in re-- in reviewing the history of the unclaimed property statutes, that \$25 amount for both the tabloid publication and the owner letters has never been updated since 1969. So certainly \$25 in '69 versus 2019 is a very different amount, so we feel that it is-- is time to increase that amount. But it-- it is important to note that those items will be published on our Web site and available for claim. These changes are certainly not meant to, you know, hold onto more money or not return it to the owners, just find more modern and prudent ways and cost effective ways of returning money. And, of course, our Web site, you know, is an efficient way for claimants to search out money and file claims and also allows for some automation within our office. So it's more efficient when claims are filed that way for us as well. Then when a number of life insurance companies demutualized there was a substantial amount of insurance proceeds that were reported. A separate fund for these unclaimed demutualization proceeds was created. It's been over ten years since the last demutualization report was deposited into that fund. And the number of claims that we process on a regular basis for those demutualization proceeds, they've decreased over time. And so the amount paid out of it no longer warrants those funds to be held in a separate fund. So we would like to go ahead and consolidate the demutualization trust fund into the escheat trust fund and just pay all the claims out of the one fund. And then the minimum balance of \$500,000 in the escheat trust fund-- that amount-- really, that one was 1992 that that was last updated. And we have paid claims that are over \$500,000. So we simply want to make sure that, that account is never at a balance lower than we're

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able to pay our claims. And then one of the last items then was the delegating the early escheat request. So that's certainly something that often doesn't warrant the attention of the Treasurer. So we'd like the Treasurer to be able to delegate those tasks to allow for faster responses to holders. And then as Senator Gragert mentioned, in addition to the bill there's a committee amendment. There appears to be a conflict-- a conflict in existing statute related to the escheat trust fund which previous Treasurers have interpreted differently. The amendment just clarifies that the fund can be used to pay costs associated with returning unclaimed property.

BREWER: All right. Thank you. Question? Senator Blood.

BLOOD: Thank you, Chairman Brewer and thank you for clarifying things. I have a really quick question. So we're changing the fund that it goes into it. And if I heard you correctly it was because you'd rather have one fund to draw from as opposed to more than one fund. Is that correct?

MEAGHAN AGUIRRE: Correct. So-- and you're referring to the demutualization trust fund consolidated?

BLOOD: Yes.

MEAGHAN AGUIRRE: So my understanding is that, that was-- so-- well, let me say it this way. So we have the unclaimed property escheat trust fund. When reports are sent to us the funds are deposited into that fund. And then when we pay claims they're paid out of that fund. The demutualization trust fund was a separate fund set up just because-- it was basically like a windfall of all of these proceeds from these life insurance companies or other insurance companies when they demutualize. So it was a lot of money that was sort of out of the normal flow of like normal reporting and had that money just gone into the escheat trust fund and been transferred to the permanent school fund and then we still continually had all of these claims that were demutualization proceeds, that money may not have been in the escheat trust fund. So having that money held separately made sure that that money stayed within the purview of Unclaimed Property and was available for claims to be paid, if that makes sense. So, so but because it's been so many years, they're fairly minor amounts anymore that are paid on those reports that were filed over a decade ago.

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BLOOD: And so again, why were they originally set up separately though?

MEAGHAN AGUIRRE: My understanding is that it was set up separately so that it was maintained as an unclaimed fund, because otherwise like every year we transfer everything in excess of \$500,000.

BLOOD: Right.

MEAGHAN AGUIRRE: So if we had-- and I don't want to misstate those numbers, but you know if on a regular basis back in 2007 maybe we received \$9 million over the course of the year just under normal reporting. And then we were to transfer maybe about that, \$9 or \$10 million into demutualization proceeds. If all of that money had gone to the permanent school fund, we had \$500,000 in the escheat trust fund. And then if claims on those reports that were filed for all of those demutualization proceed-- we've sent all the money and the permanent school fund and now we have claimants coming forward wanting that money that was sent to the permanent school fund. And on the normal course of reporting it's not being replenished as fast as all of that money had left the account.

BLOOD: And so you feel by doing this it will make it more streamlined.

MEAGHAN AGUIRRE: Yes.

BLOOD: All right. Thank you.

MEAGHAN AGUIRRE: Sure.

BREWER: All right. Additional questions. Yes, Senator Kolowski.

KOLOWSKI: Thank you, Mr. Chairman. About how much is in the fund in a given year? Can you spot that?

MEAGHAN AGUIRRE: As far as like-- so what is reported on an annual basis the last couple of years just to kind of give you a ballpark, it's about-- annual reports are about \$18 million to about \$20 million reported. And then the last couple of years we've paid about \$15.3, \$16.3 million.

KOLOWSKI: OK. About a \$3 or a \$4 million gap.

MEAGHAN AGUIRRE: Yeah. Yeah and I mean it fluctuates a little bit. I mean there've been-- maybe two years ago we paid one claim that was

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about a million dollars. You know, there's only so many of those that come along. So it fluctuates a little bit, but yeah, we pay more money now than we ever have.

KOLOWSKI: So people are better notified or between the computers and everything else as far as the ability to look up-- maybe my name is in there and I don't know.

MEAGHAN AGUIRRE: Right. And in general, you know, awareness of the program both amongst holders and just the general public has become, you know, more and more known. And especially, you know, with the Internet and social media and that sort of thing people do-- when they find somebody on the list they're very likely to share it, which is another reason why the newspaper publication is very successful. You know, maybe not everybody gets the paper but if you have a friend or relative that sees your name they're certainly going to tell you about it.

KOLOWSKI: Thank you.

BREWER: All right. Additional questions? Meaghan, are you hanging around for LB505?

MEAGHAN AGUIRRE: Probably.

BREWER: Good.

MEAGHAN AGUIRRE: I'm not-- that bill is not related to my particular division of the Treasurer's Office. It is a Treasurer's Office bill.

BREWER: Do you have another expert?

MEAGHAN AGUIRRE: Yes, there is somebody else for that.

BREWER: Well, good, I've got an expert. Thank you.

MEAGHAN AGUIRRE: Yes.

BREWER: OK. Additional proponent testifiers. All right. Any testifying in opposition? Welcome to the Government, Military and Veterans Affairs Committee.

JILL BECKER: Good afternoon, Senator Brewer and members of the committee. My name is Jill Becker, J-i-l-l B-e-c-k-e-r, and I appear before you today as a registered lobbyist representing Black Hills

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Energy and we have a few concerns with the green copy of LB406 as introduced. Excuse me. The first of those concerns deals with the elimination of the aggregation provision which is found on page 3 and subsection 3. As an entity that is actively involved in submitting claims such as this to the state, there really is an administrative burden on companies to comply with the provisions of all of the states that we operate in and might be sending money to. And so we really do view that as an administrative burden that would be placed on organizations and unfortunately that's not reflected in the fiscal note. Another suggestion that we would have is, is on page 4 in lines 15 and 16. We would suggest adding the language "his or her designee" so that instead of having one of our-- instead of having our chief financial officer sign these reports we could have our designee--the designee of that officer of our organization sign the reports. We did talk to the Treasurer's Office about our concerns and so they are aware of them. Certainly, we understand that the funds that we are talking about are not ours. They belong to potentially former customers, they belong to former employees, they might be paychecks. But there certainly is an administrative cost to making all of this happen. And in addition we get audited. And so if we're doing something incorrectly there is penalties that we might potentially face, too. So we hope that there's some reasonableness in really what our state statutes require of our organizations. And certainly we'd be happy to work with the Treasurer's Office or the committee on any potential changes that you might deem necessary. And with that, I'll be happy to take any questions.

BREWER: All right. Thank you for your testimony. Senator Hunt.

HUNT: Thank you, Mr. Chairman. Thank you, Miss Becker. Can you clarify again on page 3, the part that you take issue with?

JILL BECKER: So on page 3, it would be the stricken language in lines 18 and 19.

HUNT: OK.

JILL BECKER: And so that's-- that is the \$25 minimum that we can't-- we are allowed to aggregate. So after we do our due diligence if we are unable to locate those individuals if we owe them \$23 it goes into this bucket. And we put everybody in that bucket that we are unable to locate after our due diligence and then for those individuals we send a check to the state to cover that aggregation amount. So just to-- kind of further on your question that you had before. There is some

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language in the bill regarding changing a \$25 minimum to \$50, but that isn't everywhere. So the statute that-- the statutory change that you were referring to deals with the publication minimum, not the minimum that we have to follow, if that makes sense.

HUNT: Yep, got it.

BREWER: All right. Additional questions? Senator La Grone.

La GRONE: So just to be clear, since Senator Gragert indicated he had an amendment to "reininclude" that language, would that eliminate your opposition?

JILL BECKER: Yes, it would. Yes.

BREWER: All right. Additional questions? Seeing none, thank you for your testimony.

JILL BECKER: Thank you for your time.

BREWER: All right. Any additional that are testifying in opposition? Any in the neutral capacity? Come on up. Welcome to the Government, Military and Veterans Affairs Committee.

ROBERT BELL: Thank you, Chairman Brewer, and good afternoon. My name is Robert Bell, that is spelled R-o-b-e-r-t, last name Bell, B-e-l-l, I am the executive director and registered lobbyist for the Nebraska Insurance Federation. Just as way of education a little bit to the committee because I have not been before this committee before, what the Nebraska Insurance Federation is, it is the primary state trade organization of domiciled insurers and other insurers that have a large economic presence in Nebraska. And so many of your constituents own our insurance policies, do business with my companies. We employ many people in your district as well. Insurance is a, is a, is a great economic driver in our state. A couple of-- a few years ago the federation did a report related to economic activity in Nebraska and insurance. And about 35,000 jobs in Nebraska are tied to insurance and the average wage of those jobs is about \$65,000 annually. I just appear in a neutral capacity today. Some of the members had a concern with Section 3 of LB406, which talks about the aggregation limits that Jill referenced earlier. They were generally opposed to getting rid of the aggregation reports because it's an additional cost and expense on them to put together individual reports and send them in. After conversations with the State Treasurer's Office and Senator Gragert,

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my understanding is that provision would be removed. And with that, we would-- our opposition as an organization would also be removed. We-- we're also willing over the course-- you know, I understand the Treasurer's concern that they want to get as much information as possible so they can reunite that property with their members. And certainly we are more than willing to sit down over the summer interim and see if we can come up with a solution that would work both for the Treasurer's Office and for the insurance industry in Nebraska. Thank you.

BREWER: All right. Thank you for your testimony and your insurance commercial. Any questions? Questions? Seeing none, thank you.

ROBERT BELL: Thank you.

BREWER: Any additional testifiers in the neutral position? Senator Gragert, would you like to close?

GRAGERT: Thank you, Chairman Bower [PHONETIC]-- Brewer. I would just like to clarify that the amendment that I sent around doesn't actually address the lines 18 and 19, but willing to work with that and get that squared away with the concerns that we heard here today, definitely. I also want to say and thank all of you for listening to us, but I certainly want to applaud the Treasury-- the Treasurer and his staff for taking the measures to make his office more efficient and effective. So that's all I have to say in closing and re-- re-- reiterate we were-- we are willing to work with the concerns and to move this bill along. Thank you.

BREWER: All right. What I'll do-- what I'll do is have you, the Treasurer's Office, and Dick Clark kind of mesh to make sure that all of the things are identified get put together so it's the package that we need it to be.

GRAGERT: Sounds good, sir.

BREWER: Thank you for introducing LB406. With that said, we do have some-- have a letter to read in, in the neutral capacity of Robert Hallstrom from Nebraska Bankers Association in Lincoln, Nebraska, so add that. With that said, we will do a battle handover.

La GRONE: That concludes the hearing on LB406. We're now moving to LB505. Senator Brewer, welcome to your Government, Military and Veterans Affairs Committee.

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BREWER: Thank you, Vice Chair La Grone and good afternoon fellow senators of the Government, Military and Veterans Affairs Committee. I am Senator Tom Brewer. For the record that is T-o-m B-r-e-w-e-r. I represent the 43rd Legislative District, which is 13 counties of western Nebraska. I am here to introduce LB505. I am introducing this bill at the request of the Treasurer. The intent of this bill is to update and streamline the process for receiving and distributing child support money. We must make sure that support payments get to the children who are entitled to them. We also need to protect taxpayers' resources in this process. As we prepared for this hearing we had an opportunity to bring together the Treasurer's Office and the Department of Health and Human Services to figure out how to make this process more efficient while meeting federal law standards. The two agencies have made a lot of progress toward these goals. This-- there is still work to do. A committee amendment will ultimately be needed to reflect the work that all the parties have done. If you would like to ask any questions-- technical questions about this bill, it is my understanding that I'll be followed by an expert from the Treasurer's Office who will be able to address those questions. There will also be someone from DHHS here and available. With that said, thank you and I am available for questions if they're not technical.

La GRONE: Thank you, Senator Brewer. Are there any questions? Senator Blood.

BLOOD: Thank you, Vice Chair La Grone. This may be technical, maybe not, but I'm going to see if you have the answer first. So it says, or any other form of guaranteed payment as may be approved by the State Treasurer. What other forms of guaranteed payment are available to the State Treasurer?

BREWER: That's a technical question.

BLOOD: All right, then I'll wait for the technical woman to come forward and help us.

BREWER: Person, technical person.

La GRONE: Any further questions? Seeing none, thank you, Senator Brewer.

BREWER: And I'll stay around for closing.

La GRONE: We'll now move to proponents and the first proponent.

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TROY REINERS: Good afternoon, Senators.

La GRONE: Welcome to the Government Committee.

TROY REINERS: My name is Troy Reiners. I'm the director of the Nebraska Child Support Payment Center, also referred to as the State Disbursement Unit. And I'm here and obviously supporting this bill because what it will do is, it will allow us to further streamline the processing of child support payments, thereby getting them to the families that are in need of them sooner. How it will do that, the first change that we're looking at is a requirement to require clerks-- there are lingering county clerks as well as child support offices that essentially receive payments at their offices via usually some form of paper method. So what they do is they will put these into an envelope and then mail them on to us. With today's technology we can actually allow for these payments to be transferred to us electronically, similar to what we do with employers that have 50 or more employees, have them transferred electronically; more efficient, more secure. Currently, we're receiving 83 percent of our payments electronically, which is in the top two in the country. So we're doing it fairly well. That is one of the first changes. The other changes that we're looking at is to remove bank return item count from two to one. And this change is brought about because, is what Senator Brewer has mentioned, the-- keep-- protecting of the taxpayers. A federal requirement for child support payments are that when they are received they are processed and disbursed within two business days. We actually are doing that within 24 hours. So the monies we receive today on the average of \$1.1 million per day are being disbursed tomorrow by 11:30 a.m. When items do end up not being honored, for whatever reasons, then we get notifications from the bank and those notifications occur after we have already disbursed the monies. In the past, this particular statute allowed for two items to be passed like that prior to us requiring guaranteed funds, which is another section that you kind of referenced. By moving it to one, essentially, we will be able to require guaranteed funds sooner rather than later. And our paper items, on NSF items, our bank does currently already reprocess them a second time. So when we do have a paper NSF item returned, technically it is two bank return items because we're billed by our bank for the first one and then if it-- they resubmit it through the financial system. If it returns again we're billed by our bank again for the second one. And then at that point our account is debited and we don't receive these notices upwards to seven to eight days after the fact. So the monies have already been disbursed to the parents receiving

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payments. The other item it does is it opens up the form of guaranteed funds. And so you ask, well, what are the other forms of guaranteed funds? That payment method is a new payment method that we introduced in about 2014. It's referred to as "Pay Near Me." There are 30,000 locations nationwide that will allow for paying parents to go to any Casey's, General Dollar, Family Dollar, 7-Eleven, or Ace Check Cashing place and make a cash payment that is electronically moved to us the following day. And those forms of payment are actually more guaranteed than a cashier's check, a money order, or other forms due to the fact that they're actually parting of the cash right then and there at that moment. Whereas a cashier's check can be dishonored, whether you stop pay or whatever. Money order is similar, it can be dishonored. So I think that's covered most of what it will do. I'd probably open it up to questions at this point in time.

La GRONE: Well, thank you for your testimony. Before we get into questions though could you state and spell your name, please?

TROY REINERS: Oh. Troy Reiners, T-r-o-y R-e-i-n-e-r-s.

La GRONE: Thank you. Are there any questions? Senator Blood.

BLOOD: Thank you Vice Chair, La Grone. Are you our technical expert?

TROY REINERS: I would be the technical expert.

BLOOD: OK. So I apologize for referring to you perhaps in an incorrect form. So what are the other forms of guaranteed payment?

TROY REINERS: As I mentioned, Pay Near Me is a guaranteed form. We also do use credit card payments that are credit driven rather-- well, and actually technically even a debit card. What we're trying is to limit the money orders even, because they're very, very manual process to process.

BLOOD: Right. I agree.

TROY REINERS: A lot of times there's not enough information with them and our scanning equipment doesn't scan it very well. So credit card, debit card, Pay Near Me. We were also the first child support office to begin accepting PayPal payments. And PayPal payments are a much-- we have had some that we've had, you know, dishonored. And most time these other forms that we refer to as like "nearly guaranteed funds," the only way that they can be dishonored is based upon like a fraudulent transaction occurring. So if somebody gets somebody's

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credit card and then use it to pay their child support, well, obviously the actual real credit cardholder has an opportunity to file a fraud claim stating my card was used illegally. And, obviously, by the time we receive notice of that the monies definitely have made it far out the door as well. So does that answer?

BLOOD: It does, but it creates another question for me. So, so why are we being so vague about-- I mean, it's quite obvious you're talking about Visa, MasterCard, credit, debit card, PayPal, maybe in the next year it'll be bitcoin. Why are we not stating the types of payment that are-- why are we making it so vague?

TROY REINERS: I think just because that way we're not always-- we're not also tying ourselves only to what exists in the statute, because like you stated, as we move forward there'll be additional types of payment methods. I mean, we're not looking at bitcoin. But, I mean, there will become potentially other forms of payment that are newer forms. Obviously, we're, we're looking at Venmo. Venmo is a payment that would be very, very much more along the lines of guaranteed funds. You have Square pay, you have Square Cash, there's Venmo. There are a number of other ones out there and we are working on those. So, I mean, do I list something that we're not doing yet or do we make it so that when we do add it, it doesn't have to be added to be listed?

BLOOD: So, so again, as you add to this-- I'm sorry I keep giving more questions because that I need more information. So as you talk about these payment systems, some of the ones you've talked about are not necessarily that secure for government use. So for me, that's what my concern is at, is that we're saying basically it's going to be up to the State Treasury to decide which way they-- what they should use to accept payment. I believe in pretty much everything that you've stated as far as being a secure method, but there-- as everything nowadays, are plenty of people trying to hack into different systems and public information getting-- private information becoming public. So you don't think it would be beneficial for it to be under more than just the State Treasurer's Office? Should we not have an entity involved with what is-- who decides how our payments are made? It just seems to me like for something so important it shouldn't be so random. This feels like it's really random right now. I feel like for the safety and security of these people's private information that perhaps there should be another person involved besides the State Treasurer or another entity involved that would oversee that.

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TROY REINERS: I think that's-- maybe I'm confused what you mean by their private information.

BLOOD: I'm talking about people that are getting hacked, which is pretty commonplace. My husband works at Offutt Air Force Base. As we all know, the federal government was hacked. So I worry about people's ability to know what is a secure site over another secure site or maybe not so secure site, if it should fall to more than one entity. That's what I'm saying. I'm not disagreeing with you that you should expand and use everything you can to collect money--

TROY REINERS: Right.

BLOOD: But I feel that because we are talking about people's personal information, should there not be somebody else involved in deciding or should it not be brought back to the Legislature in a way that, that we know what's going on? Do you hear what I'm saying?

TROY REINERS: Yeah, I believe I do. I mean, the Treasurer's Office is essentially-- they're responsible for the financial contracts for the state of Nebraska. So the Treasurer's Office is a good place to have this, as we are vetting any potential partners that we partner with. You know, U.S. Bank obviously is one of our largest partners and you know what I mean. So we go through a whole vetting process. We're not-- I mean, we're not looking to, you know, open up to, you know, jokingly, start taking chickens at our kiosks or something, you know. I mean, I don't--

BLOOD: And that was my next question.

TROY REINERS: I, I actually talked about it, believe it or not, but they don't know what size a box to put in the kiosk.

BLOOD: Put it something big like cattle.

TROY REINERS: But what we are trying to do though is, we're, we're trying to remove all obstacles for paying parents--

BLOOD: Absolutely.

TROY REINERS: --so that they have more options. And, you know, the one thing you mentioned about was security and that type of thing. You know, fraudulent returns, you know, items can be dishonored. But, I mean, let's face it. These people are going to a Web site to make a payment on behalf-- I mean, we have, we have essentially grandmothers,

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we have mothers making payments, we have, we have other people making payments on behalf of paying parents. And so, you know, where do we limit-- like where do we start saying, well, you're not the payer and, I mean, do you know what I mean? I believe the goal should be we be able to accept as many forms of payment as we can from the sources that we're receiving them from. And then figure out like what we're doing-- be debt preventative. I mean, protect the taxpayers' money, make sure that we're receiving the funds, shorten the time period to process them. We're actually looking into like near real time payments. I mean, because the sooner we can get the money in, applied, allocated and then out the door to the-- these, these are not the state of Nebraska's monies. These are these families' monies that we're working with. And so, you know, I think we have a responsibility to move those monies in and out as quickly and as efficiently and as securely as possible. All of our sites, everything has to be PCI compliance. Are you familiar with PCI compliance? OK. Because PCI, I mean, that, that's a certain level that our vendors have to match prior to us ever, ever even considering to partner with them. So I'm not sure what office you would look to put it into in order to gain more se-- to--

BLOOD: Yeah. I don't disagree on anything you said with the exception of that. I'm not sure I agree that-- that we agree on that one thing. So I do agree that everything that you're saying is absolutely true. It is not our money, it is those families' money and they need to get it as soon as possible, because they deserve it because the money is not for the parents it's for the children. However, I just am concerned and, and, and, we have lots of people are going to talk about other things today so I don't want to take a lot of time. And these are some issues that maybe I can research on my own and maybe bring back to the office, but--

TROY REINERS: Yeah. I might not be understanding, I mean, what the specific item is.

BLOOD: Because a lot of things that we've always considered to be secure are no longer secure-- are no longer secure. And again we can talk about this outside of the hearing.

TROY REINERS: OK.

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La GRONE: Any further questions? Seeing none, thanks for coming down. We'll move to the next proponent. Seeing none, any opposition testimony? Seeing none, any neutral testimony? Welcome.

MATT WALLEN: Good afternoon. My name is Matt Wallen, M-a-t-t W-a-l-l-e-n, and I'm the Director of the Division of Children and Family Services in the Department of Health and Human Services. I am here to testify in a neutral capacity to LB505. I'm before you today because child support enforcement is part of the Division of Children and Family Services. The child support enforcement program is intended to help families gain self-sufficiency. The goals of the program are to ensure that children have the financial and medical support of both their parents, foster responsible behavior towards children, and emphasize that children need both parents involved in their lives. Children and Family Services is the state's designated Title IV-D division, which means we're responsible for the state's Title IV-D plan being in compliance and for identifying an appropriate state disbursement unit to collect and make payments on behalf of the IV-D division. State statute 43-3342 includes that the state disbursement unit shall be administered and operated by a public or private entity as designated by the Title IV-D division. We have chosen to work with the Treasurer's Office to provide this service. This is unique in that we are the only state in the country to use the Treasurer's Office. Other states either do it themselves or engage a private entity to perform these services. As introduced, LB505 includes provisions that would put \$73 million that Nebraska receives from the federal government annually to fund the Title IV-D and TANF programs at risk. The bill also raised serious concerns with regard to our responsibility to assure that families have the financial means to meet the child support needs of their children. As the state's Title IV-D division, the Division of Children and Family Services looks forward to working with Senator Brewer and the Nebraska State Treasurer in drafting an amendment for LB505 that will address concerns noted in the original introduced bill. After meeting with Senator Brewer's office and the State Treasurer we were able to better understand the intent of the legislation. We have reached an agreement in principle as to the changes that will, will need to be made to the legislation to assure that it is consistent with the states approved Title IV-D plan and federal requirements. Without the amendment, the department strongly opposes the bill. Further, we have a strong commitment from my office and the Treasurer's Office to execute an MOU for the administration and operation of the state disbursement unit on behalf of the Division of Children and Family Services. Thank you for

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the opportunity to testify before you today. I'd be happy to answer any questions that you might have.

La GRONE: And thank you for your testimony. Are there any questions? Seeing none, thanks for coming down.

MATT WALLEN: Thank you.

La GRONE: Any further neutral testimony? Seeing none, that will close our hearing on LB505. We do have some letters to read into the record. Sorry, we do not have any letters to read into the record on this one. That closes our hearing on LB505.

BREWER: All right. I'm back. And Senator Erdman. Timing could not be better. We will now have testimony on "LB189-er." Senator Erdman, welcome to the Government, Military and Veterans Affairs Committee.

ERDMAN: Thank you, Senator Brewer. I appreciate being here in front of this prestigious committee. My name is Steve Erdman, S-t-e-v-e E-r-d-m-a-n, I represent the 47th District, ten counties in the Nebraska Panhandle. I come to you today with a bill, LB189, that removes some restrictions on Highway Allocation Funds to villages. I want to submit to you an amendment and basically this amendment is the bill. I'm sorry that I'm third because I have had a planned statement. I was going to be first. And like Ricky Henderson was the greatest lead-off hitter ever in baseball, and I was going to share with you that I'd be the greatest lead-off speaker you ever had in your committee. But now it all got shot down when I moved to third. So anyway--

BREWER: I would only tell you that you draw quite a crowd, but I have a hunch it may not be you they're here for.

ERDMAN: OK. I appreciate it. Anyway, let me, let me start with where we're at on this one. A year ago I introduced LB382 that was a similar bill to remove restricted funds from the budgeting process for counties. When I returned home after the session last year I was visiting with a county-- couple of city mayors back home and they said, you didn't include us. And I said, I sure would. And so we came this year and put this bill together and then once I got it drafted and put it together and they seen it their conclusion was that, that does not apply to them because their budgeting process is different. So what this does apply to and the reason for the amendment, this applies to villages only. And that amendment would strike that

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language in such a way that that's the only thing that will effect is villages. And a village is a community that's a population of 100 to 800 people. And Senator Brewer, I would assume that in our two districts we may have the most villages of any districts in the state. So it makes sense that we do this for those people. So I have introduced to you-- I have given you the amendment and you'll see on, on the pages that are underlined there that we are removing the municipalities and cities from this application. On the bottom of page 2, line 28, it talks about it is applicable to the villages, and line 26 as well. So that's that. But let me start with some brief prepared remarks that I have written. I have to try to-- help to try to explain what it is we're trying to do. The hallway-- the Highway Allocation Fund and an incentive payment and-- it is given to the villages in the core-- category of Nebraska-- by the Nebraska Advantage Act on highway allocations. So in 2015 the Legislature enacted a gas tax increase that also comes to villages through Highway Allocation Fund. The new dollars help villages improve roads, bridges, but I've created a complication due to where these are placed in the village budgets. According to state budget statutes, money that comes to villages through Highway Allocation Fund as well as the city payments are considered as state aid and thus are restricted funds. The prior year's restricted funds serve as a basis for allowable growth in the following year budget. Restricted funds are comprised of property tax payments in lieu of taxes, occupation tax, motor vehicle taxes, state aid, and certain capital expenditure improvement transfers. So here is a very simplistic example of how this works. A village-- say a village-- village budgets, budgets to spend \$500,000 of restricted funds. Of that \$500,000, \$50,000 is from the highway allocation incentive payment program. The incentives are received by the budgets for hiring licensed highway superintendents or street superintendents. Another \$450,000 of the \$500,000 is used for other billet-- village functions. When highway allocation incentive payments go up, as they have recently, because they are considered restricted funds they decrease the amount the village can spend on other functions. In the example that I just stated, if the village receives an increase of \$500,000 in highway allocation and incentive payments, only the \$450,000 of the \$500,000 could be spent on other village functions. Because the 500,000 number doesn't change, the village function would be negatively impacted if the increase of highway allocations were increased. And so, consequently, what's happening is if they get more highway allocation funds, in the next year they could spend-- they'll be able to spend less of their money on something else. So LB189 would take out allocation incentive payments out of the restricted fund

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category. As in that example, the \$500,000 amount, the village would still only budget-- excuse me-- only budget \$450,000 for other village functions in the first example. But when highway allocation incentive payments increase it would affect that \$450,000 amount. The increased highway allocation incentive payment will still be a part of the village budget, but the village will have more flexibility in using it without negatively impacting-- affecting other village functions that they use their funds for. So but if we remove the language from this bill, going back to the \$500,000 example, the village could have used the \$500,000 in FY '19-20, if the \$500,000 for allocation incentive payments were taken out of the definition of restricted funds. There would be an opening for a one-time increase of restricted funds authority of the \$500,000. To make sure the bill does not give away an unintended budgetary authority, we have included new language on page 4, lines 17 through 22, that determined the prior year restricted funds amount. For the growth calculations in '19 and '20 the budgets are adjusted as made as follows. So that's the-- the restriction is fixed so that they don't have a one-time allocation increase, but so they are able to spend their money as they need to spend it for other functions. So if the allocation comes up on the Highway Allocation Fund it doesn't restrict their other budgets. So that's basically what we're trying to do here. We're trying to help the villages be able to spend the money more wisely and in a way that's appropriate to what they need it for so they're not restricted from using it. But it's not an opportunity for them to tax more or get more money, it's an opportunity to be more flexible in their budgeting. So I would encourage you to advance this if you would. Any questions?

BREWER: All right. Thank you for your testimony. Questions on LB189. All right. Seeing--

KOLOWSKI: Let me, let me--

BREWER: Go ahead.

KOLOWSKI: Mr. Chairman, thank you. Senator, where, where would the cities-- villages get these different tasks done in the past before this bill has come about?

ERDMAN: They're getting Highway Allocations Fund now, Senator Kolowski.

KOLOWSKI: OK.

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ERDMAN: But-- and as an example, if they do get Highway Allocation Funds and they're designated to hire these people and do the things they need to do-- one of the things I failed to mention was, what are capital improvements and what are not. And grading or graveling a road is not a capital improvement, but taking a gravel road and converting it to an asphalt road would be. And so they can use those funds in that regard. And so this-- they, they now get Highway Allocation Funds. Cities, counties, and villages both-- all get that. We don't get as much as a city or county but it is-- it's an opportunity for them to save some of their money to use it or on a different method of application that they wouldn't normally be able to use. But they can't budget from one year to the next for more money than what they receive, so this allows them a little "budgetary"-- budgetary flexibility.

KOLOWSKI: And it's only between 100 population and 800?

ERDMAN: A village is-- yes, sir. A village is 100 people to 800 people and I have-- I have several.

BREWER: Yes, we do.

KOLOWSKI: How many in your district, as an example?

ERDMAN: Probably seven or eight.

KOLOWSKI: OK. Thank you.

ERDMAN: Something like that. I'd have to go back and figure it out. There are quite a few.

BREWER: All right. Additional questions. Seeing none, thank you for your testimony. Are you going to stick around for closing?

ERDMAN: Yes.

BREWER: Thank you. All right. Proponents of LB189, proponents. Opponents, opponents. All right. Those in the neutral capacity. Wow. All right. Come on up and close on LB189. Oh, he just waived closing. That will expedite it. Oh, hold it.

CHRISTY ABRAHAM: Sorry, sorry.

BREWER: It's all right. We just need you to move faster in the future.

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CHRISTY ABRAHAM: I, I, I apologize. There's a big crowd here for you, Senator Brewer. Sorry, apologize.

BREWER: Welcome to the Government, Military and Veterans Affairs Committee.

CHRISTY ABRAHAM: Thank you so much, Senator Brewer. Members of the Government committee, my name is Christy Abraham, C-h-r-i-s-t-y A-b-r-a-h-a-m. I'm here representing the League of Nebraska Municipalities and I first just want to say a big thank you to Senator Erdman for introducing this bill. This is going to be a huge benefit to a lot of villages across the state and we're very grateful for him. We have 380 villages in Nebraska. And I apologize, I don't know how many are in your district, Senator Brewer or in Senator Erdman, but there's 380. So that's, that's a lot of villages out there. A few months ago the Auditor called the League to a meeting to discuss the issue that's addressed in this bill. The Auditor had been getting calls from these small villages saying that the Highway Allocation Funds that they're getting were really squeezing these villages. And they weren't left with any really room and they're restricted fund budget for the purposes of doing other things in city government that they need to do, like public safety, just general government expenses, because all of the Highway Allocation Funds have to be spent on streets and roads. So the League was concerned enough about this issue that we actually met with Senator Brewer about this issue and discussed our concerns with him and the possibility of introducing a bill. After we had that discussion with Senator Brewer we started getting feedback from some of our larger communities saying, you know, this gets a bit trickier on-- with the bigger the budgets. It works great for villages, it really is a great fit for them, but you have letters from I believe the city of Lincoln and some cities in Sarpy County that are saying, this is a little bit more tricky for us than it is for villages. We may need to tweak the language some. So with that feedback we decided, OK, we, we better-- we better think about this some more. And so we have had conversations with Senator Erdman's office about this. We were so pleased to see the amendment that limits it to villages. And if this committee does adopt that amendment, the League will support the bill moving forward. Thank you.

BREWER: All right. Thank you for your testimony. Questions? All right. So, again, villages only and you're testifying in the neutral position.

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CHRISTY ABRAHAM: I am, because the green copy of the bill, as you know, applies to all municipalities and we've had some cities that have written you letters saying they oppose the bill. So the League's policy generally is if we have a split amongst our municipalities, then we testify in the neutral capacity. But if the amendment that Senator Erdman has given you is adopted we would support the bill.

BREWER: All right. I just wanted to make sure for the record we clarified that.

CHRISTY ABRAHAM: Yes. Sorry. More explanation than you needed, Senator.

BREWER: That's all right. OK. Seeing no questions, thank you for your testimony.

CHRISTY ABRAHAM: Thank you very much.

BREWER: Ah-ha. And we have a latecomer here.

RUSS KARPISEK: I'm moving fast, Senator.

BREWER: And are you in the neutral position?

RUSS KARPISEK: I am in the neutral position.

BREWER: Then you are in the right place at the right time.

RUSS KARPISEK: I was watching from upstairs.

BREWER: Go ahead whenever you're ready.

RUSS KARPISEK: For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k. I am the legislative liaison for the Auditor's Office, Auditor Charlie Janssen. I would have been here in the neutral even without the amendment, because it's really up to the Legislature how we do this, but we do-- as Christy said better than I will-- our office did have villages calling in and saying, we're getting bumped up to our top of our budget, to our lid with roads funding. As you know, all entities can go up 2.5 percent and maybe the 1 percent extra if they vote for it. Sometimes-- they have no control over the roads allocation. It may come in at 4.5 percent, which is great for them. But, again, that upper level then gets squeezed up against by the roads funding because it's a bigger number, which is also then 2.5 or 3.5 percent of that bigger number. So, as Christy said, there's,

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there's just not a lot of room for them to do the other things that they need to do. And we have just seen in the Auditor's Office that they're getting further-- well, we haven't seen that they're getting further behind. But you can only imagine that they are, because they can't do other projects that they would like to. They can probably do a lot of roads things but, but not so much other things. So we do appreciate the amendment. I would just like to draw your attention-- I know that the bigger cities see it as a problem, because under those restricted funds they can go up that 2.5 percent. So, of course, it builds them-- brings more money in and, you know, in a bigger budget you can move it around a little. I would just have to ask if you look at the fiscal note, Omaha's I think is \$56 million dollars. And I guess the Auditor's Office would really like to know how they could come up with a number like that. But I guess it doesn't matter, we're taking them out. But that seemed a little bit atrocious to our office. I'd be glad to try to answer any questions.

BREWER: All right. Thank you for your testimony. Any questions? Questions? All right. Seeing none thank you for your testimony.

RUSS KARPISEK: Thank you, committee.

BREWER: All right, we'll try this one more time. Any additional in the neutral capacity? Seeing none, Senator Erdman, you are welcome to come on up and close.

ERDMAN: Well, Senator Brewer, I wasn't going to but after hearing those positive neutral testimonies I thought I would. I would-- I was remiss in calling your attention to the fiscal note that I have, that I think this is appropriate after we made the adjustment for the amendment. And for the second day in a row my fiscal note is zero. So I was going to call that to your attention. So I would, I would ask you to move this bill quickly, because as fast as things you're going through the floor it would be a great time to have it there, if that makes any sense. Thank you for your time.

BREWER: All right. And thank you for your closing. Any additional questions for Senator Erdman? All right. Thank you for LB189. We do have some letters to read in. We have two opponents: the city of La Vista; and the city of Lincoln. With that said, we'll do a battle handover.

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La GRONE: That concludes the hearing on LB189, and we'll move to LB373. Senator Brewer, welcome back to your Committee on Government, Military and Veterans Affairs.

BREWER: A little deja vu here. All right. We're going to try this less the readers. Thank you, Vice Chairman La Grone, and good afternoon, fellow members of the Government, Military and Veterans Affairs Committee. I'm Senator Tom Brewer, for the record that is T-o-m B-r-e-w-e-r. I'm here representing the 43rd Legislative District, which is 13 counties of western Nebraska. I'm here to introduce LB373. I want to begin by saying that despite what you are going to hear today LB373 is not an antiwind energy bill. This is a bill about county government. If it was a bill about wind energy it would have been in Natural Resources Committee. The opponents of this bill will argue that it prevents wind energy development in Nebraska. This is false. It does not. Two years ago I brought legislation that would have created state laws that would have limited or prevented wind energy development in Nebraska. Like other senators in this body, my philosophy has evolved with the experience that I've had in this office. I firmly believe that whether or not wind energy is developed or limited in any way in Nebraska, it is not the proper role of our state government to determine it. I believe this question is a matter best resolved by our long tradition of local control. That is what this bill is about. The bill requires counties that wish to host industrial wind energy facilities to have zoning in place. Of the hundreds of concerns my constituents have brought to me, only three are in this bill. The first one is, county zoning must address setback distances between homes, property lines, and industrial wind turbines. Second one is, counties must address noise and use industrial standards, scientific standards and methods to measure this noise. Three, counties must address the decommissioning of industrial wind energy facilities and dedicate what is necessary in the way of financial resources to ensure this. The bill creates a cause of action for citizens who believe they have suffered the loss of property value because of their proximity to wind, industrial wind energy facilities. The bill also creates a mechanism for counties to recoup the costs associated with an acting, enacting zoning requirements by this bill. The bill contains a two-year period for the county to enact their zoning plan. During the two-year period the county may continue to host industrial wind energy facilities and issue conditional use permits for construction. The requirement in this bill is, during this period industrial wind turbines may not be built within three miles of homes. After the two-year period this three-mile requirement expires

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and zoning is required before wind energy can be built. This point is not as clear as I would like it to be in the bill. So I have brought an amendment. That amendment was passed around at the beginning and it makes it very specific. So if you're here to testify against the three-mile setback, please understand it is temporary and it is during the transition period, in that two-year period. The idea behind this requirement is to incentivize the enactment of county zoning. Some counties may wish to enact a setback of far less than three miles and they have the right to do so. Obviously, it is their interest to promote completely their zoning plan so that projects can avoid the three-mile rule if the county is so inclined to shorten this distance. What I'm asking for in this bill is less restrictive than the state laws we have on the books governing the construction of things people do not like to have near them, such as chicken plants, commercial hog confinement, feedlots, and landfills. State law specifies standards that must be adopted in county, with county zoning in these kind of projects to protect neighbors. In my bill, these standards are not specified by law. In keeping with this philosophy of local control I felt it best that those choices be left up to the county boards to decide. Let me close by touching on another point that will likely be heard today. People will say that I am unfair to wind energy business for singling them out for special restrictions in law. If that is true then every industry that has had zoning enacted to regulate where it can be located has been singled out for unfair treatment. So I will argue that this bill isn't needed. I will argue this bill isn't needed. They will, they will tell you that for counties that want zoning they need to address those issues and they are free to decide for themselves. It will come down to a decision of the county. To that point I would like you to consider that more constituents than I can count have brought to my attention these very issues, many of them that you'll get, you'll get to hear from today. It comes down to property rights of owners and local control. The state Legislature created the counties. It did this because, because not all policies need to be made at a state level. I recognize that local control often produces policies that are a better fit for our communities. When we are, when, when we are senators becoming, we as senators become aware of the threat to those we represent, we have an obligation to provide protection. That is why I'm here today. The bill both preserves and continues this proud tradition of protecting safety and property rights for Nebraskans. At the end of the day the people who do not have a voice in the decisions about wind energy products, projects they are forced to live next to these facilities and have no say in their existence when it comes to the issue of zoning. Regardless of

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the outcome, their voice will have to have been heard. And this body needs to understand the impact of these decisions. Subject to your questions, that concludes my testimony.

La GRONE: Thank you for your testimony. Are there any questions?
Senator Blood.

BLOOD: Thank you, Vice Chair La Grone. Thank you, Senator Brewer. I could tell you were very thoughtful on what words you said today. I read through this multiple times and I have several questions that keep coming to the forefront for me. So you talk about property rights. I agree, especially if the further out west you go, property rights are very important. But the question I have is that if we're talking about property rights, why is only one form of energy really being considered in this bill? Why not pipelines, solar, biomass?

BREWER: Well, because the district I represent, it is the concern and the issue that they brought to me. I have not had any issues with solar or other forms of energy, so that's what generated the concern about this issue.

BLOOD: So in your communities, I'm just kind of walking through what I found in each line just to try and get some clear picture of what's going on here. So I know that I can talk about where I come from. Where I come from we have a planning commission, we have people who are responsible for anything that's going to be built that there'll be public hearings. Do you guys not have public hearings when things like this are put in, in your neck of the woods?

BREWER: Well, our, our issue is that we have multiple counties that have no zoning whatsoever. So in those scenarios it is simply the county commissioners who have oversight on any construction with reference to wind energy.

BLOOD: So they're not required to have any public hearings for input?

BREWER: Well, they can have all the hearings they want. If they, if you, here's a business model that is used. If you can convince two of three county commissioners by, say, offering them wind energy on their property to, to build you now have a green light to build all you want in the county. So the point being that there has to be some type of zoning can control how close these towers can be to homes or, or

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industry. And in the counties that there is no zoning, there is no oversight there.

BLOOD: So if we're concerned about zoning, I'm still, I'm still trying to figure this out. So if we're concerned about zoning and property rights, why are we not, instead just picking on wind, why are we not looking for comprehensive zoning requests for those counties that apparently are not doing that? Because it sounds like it's not, it doesn't, it's probably not happening at the municipalities.

BREWER: No. No. And I'm sure that you have a conga line of people that come in here and tell you what a horrible thing it is to shut down wind energy, but none of them have a windmill in their backyard. So the issue is that right now there is no set structure in Nebraska for the zoning of wind energy. Right now it's county by county. And in some cases if they're able to get there first and convince enough county commissioners or have a structure to their favor they're going to be able to do whatever they want. And you're only going to be able to influence a few people and be able to put as many towers as you want in as many places you want as close to homes as you want. There should be some structure to that. I mean, do you agree that in your district if someone was to build a confinement facility for hogs that there might be some issues if they got too close to homes?

BLOOD: I'm sure there would be issues and that's why we have people that are elected officials who have public hearings that are supposed to decide what's the right thing to do.

BREWER: So zoning might be the good answer then so that we don't have those kind of things happen.

BLOOD: So you're saying that there's no zoning whatsoever?

BREWER: No zoning for wind energy.

BLOOD: For wind energy. So I guess that's the issue I'm having is, you know, I think about the pipelines and I think about solar, I think about biomass which could have smell and why they're not included in that. And that's one of the concerns I have. One of the other concerns I have is says, including loss of property value. Who decides the loss of property value. Would, how would you know that value if you have a turbine next to you and you say, nobody wants to use my farm?

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BREWER: Well, how about this. You buy a home. We'll say it's worth \$200,000. And your neighbor across road says, you know what, I need to pad my pocket with some money and I'm going to build a wind tower and it's going to be right where I need it. It's nowhere near my home but it happens to be next to your home. That home that might have been worth \$200,000 now looks out at a windmill and as a result of that it's worth nothing because nobody wants it. There has to be some way that, to prevent that landowner from being affected by the landowner next door.

BLOOD: So, again, what would be the metrics for it is what I'm trying to decide. How would you decide that?

BREWER: Well, that would be local control. That is going to be determined by that zoning board when they look at the issue.

BLOOD: So doesn't that same that the zoning board has when somebody says, hey, I want to build a wind turbine?

BREWER: Back up that one just a little bit again.

BLOOD: OK. So you're telling me that there is a zoning board.

BREWER: Yes. Some, some counties already have one. So, so, you understand? The idea is that we have a standard across the state.

BLOOD: No, and I do get that. That, that is very clear in my mind. But I just, there's a couple of things in here that I don't get still. So the cause of action for property values is showing a loss. I, I don't see metrics and I'm not, and you're saying that that would be up to the zoning commission, the zoning board to decide what those metrics would be. But that would be inconsistent across the state then because every board would have a different opinion.

BREWER: Well, no. What you're going to do then is, Blaine County might want it to be a three-mile standoff. That might be reasonable in that county, but in Nuckolls County that might be one mile. But again it goes back to local control and they make the decision. The problem is, if there is no wind zoning in the county, it is wide open right now for folks to come in and essentially find and stake out whatever they need for wind energy and the property owners are the ones that are going to suffer. There has to be a mechanism to protect the landowners.

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BLOOD: So I'm a young farmer. I've inherited land from my father and my father's father and his father or mother. And because of what's going on with commodities right now and because what's going on with the environment right now I'm finding out that I can't make ends meet. But I choose, because I have property rights, which means right to possession, right to control, right to use and enjoy, right to allow others to use, which would be the wind turbine, and right to privacy and to exclude others. Those are your basic rights as a property owner. So I choose to go ahead and, and then put a wind turbine in my yard because I need to make ends meet. Why am I not allowed to do it the way I want to do it as a property owner?

BREWER: You are as long as what you're doing doesn't affect his property rights.

BLOOD: And where do you draw the line?

BREWER: When you start affecting his property rights.

BLOOD: So give me examples.

BREWER: Well, I think there has to be a reasonable standoff. I mean, some of the issues that I think you'll hear about today, the blades are slingin' chunks of ice and stuff that are hitting on roads and landing on other people's property. There are things that happen as a result of these wind towers and, and there has to be some way of protecting those adjoining landowners. And the other part of that is decommissioning, because you're going to look at that wind tower for the rest of your life and probably your kids' lives because you know as well as I do that the very companies that built these are going to have no ownership when it's time to tear it down because that's going to be incredibly expensive. And if you want to see an example of that, drive around Germany. Look at all the wind towers that aren't spinning anymore.

BLOOD: So are you concerned at all that as we move towards green energy and, you know, depending on which side of the fence you are on that--everybody seems to have different opinions--but it looks like we have to move towards green energy because we are losing other resources. That as the only state in this whole United States that has public utilities that as we start putting certain restrictions on it making it harder and more expensive for them that our rates will also go up.

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BREWER: All right. Well, let's back up just a little bit. First off, I think that you can't lump all green energy together. I think if you talk to a lot of the individuals I see in my district, the use of solar energy--especially with wells--is a huge hit and it's working. And it's also working on, on farms and ranches where they're using as a backup for power. And so, so I think we have to separate the two. The issue with wind energy is, you pull the subsidies the, the government payments for wind energy, wind energy won't exist. It's not a green energy. And so, you know, on the other part is we're building more and more towers and we have a surplus energy now. So the only reason we build the towers is so companies can get richer. And that's why, you know, that's, that's the hidden agenda behind the wind towers. So forgive me if I seem like I'm antiwind or, well, antigreen. I'm not antigreen. I think there are some good things out there and things that we can use. I will tell you, in my district it is the single, take that back. There are two issues, property tax and wind energy that are the two most burning issues. And I think you'll hear more of that today in that it is because there has to be some common sense issues with wind energy, whether it be, whether you're affect, affecting the property owner next to you or whether you're affecting the aquifer that you're putting it on, there are issues that need to be addressed with wind energy and that's combined with many other things, too. But I don't think you can lump everything into green energy. I think you'll find folks aren't completely opposed to green energy. It's certain elements of it and that's the reason why the issue of property rights have come up here.

BLOOD: But hasn't, it sounded like wind chimes for a minute out there. But isn't one of the reasons that so many of our farmers are going to things like putting the chicken farms to help Costco chicken plant property, like putting wind energy on their property. Because property taxes are so high and we can't seem to get it together on the floor of who likes what, why, why shouldn't we be giving them this relief to do so?

BREWER: I, I agree with you that we should have available to those landowners who need that shot in the arm, that, that resource out there as long as we can do it in a way so that they're not negatively affecting those around them. And that's why we do have zoning for swine confinement or feedlots or landfills or anything else. You know, you're affecting those around you and their ability to have, I mean if you spent your life building a home and that home becomes next to useless because of someone deciding that they want a monthly income

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from a wind tower, that's a horrible way for that person who can no longer live in that home or sell that home. And that's what we're trying to do here is, is let the counties decide the zoning to have a setback that's reasonable. It's not saying you can't have the tower. It's saying, build it in a place where everyone agrees from that community that that's a reasonable place for it to be in.

BLOOD: And, again, I guess I maybe I need to learn more about, I mean I grew up in rural Nebraska but I don't think you can just say, hey, there's a spot I want to build. They have to get permission. There's county commissioners, there's public hearings. I feel, I know we want local control but I feel like-- and we can talk about this later, too, one on one, some more-- but I feel like this might be government overreach where we're saying, you know what, you're not doing your jobs well enough so we're going to tell you how to do your jobs. That's the concern that I have.

BREWER: I think after you hear some of the testifiers today you'll realize that we're incompetent in our jobs if we don't do this, because we're the only ones that can assure that all 93 counties have the same oversight and ability to protect the residents of those counties from unscrupulous individuals who may want more money than care about the rights of those people that are in the counties.

BLOOD: That's fair.

BREWER: All right.

La GRONE: Any further questions? Seeing none, thanks for your opening.

BREWER: And I'll stay around for closing.

La GRONE: Oh, sorry. Missed it.

BREWER: It's all right.

HUNT: I'm OK. I want to see who else is going to speak and maybe I'll save my question.

La GRONE: I didn't see you. I apologize.

HUNT: No, you're fine.

La GRONE: We will now move to proponents, first proponents.

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TERRY MADSON: My name is Terry Madson, M-a-d-s-o-n.

La GRONE: Well, actually, sorry, the spelling is for the transcribers, so could you spell that in the microphone? And thanks for coming down.

TERRY MADSON: My name is Terry Madson, M-a-d-s-o-n, first name Terry, T-e-r-r-y. I'm in Nuckolls County. I'm here representing mostly myself, but I belong to an organization called Preserve Rural Nebraska, some 200, 300, maybe more members of that. It's kind of proprietary information, I guess, but to put it in context a pro wind, and I say pro wind with no restrictions candidate opposed the person we endorsed. And in that district the pro wind person garnered 58 votes. The person we endorsed got 490. So it gives you little idea of the, of the, I guess the rural flavor and the position of the rank and file voters. I would like to address a couple things about the zoning. There seemed to be a little confusion and I'm not an expert on it, but I believe the zoning, the ability to zone a county goes back probably 20 years and it's been a process. Not everybody started at the same time. Not everybody zoned. In Nuckolls County there is no zoning, period. In other counties there's zoning that was put in place when no one was thinking about wind turbines. And in other places there was the beginning of the wind industry and so there is zoning, but that may not have taken into account this business of escalating tower heights, larger and larger generators, more noise, more shadow flicker because of size changes. So I think that's, that's, I believe, very important to this bill is it kind of wipes some of that away and gets, gets us a chance to get current statewide, not my individual county necessarily but to include them. One of the things that's wrong with the wind tower siting is, is that companies will attempt to standardize a setback. And that's a flawed approach to it because a house with a shelter built on two sides is much more vulnerable to a wind tower on this where there are no interruptions of sound and flicker and so forth. The other thing is, is that, this goes to the business about the preferential treatment or lack of preferential treatment. The wind companies are being heavily subsidized nationally. We all know about the production tax credit. In Nebraska, LB84 did, kind of gutted the Power Review Board in terms of their ability to assess whether they need to jump the same hoops as the other power generators. And a particular concern to me is the fact that in my county at least if I had a \$3 million structure which is comparable to what the proposed structures there would cost, wind turbines, the wind turbine people would be paying about \$8,000 per tower and production or in nameplate capacity tax. But if I had the same value of a steel

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building with an enterprise in there, I'd be paying \$38,000-plus. We need to level, I just think, folks, and everything in Senator Brewer's bill is positive as far as I'm concerned. The three-mile setback is not unreasonable. It doesn't stop, because it is waivable and that, all that means is the wind companies have to sit down and negotiate with people that they're about to affect. That's all I have.

La GRONE: Well, thank you for your testimony. Are there any questions? Seeing none, thanks for coming down. Next proponent.

KOLOWSKI: Chairman, can we find out how many testifiers there might be in the room?

La GRONE: Can everyone who plans on testifying in any capacity raise your hand, please? OK. And just to reiterate the, the statement that Senator Brewer made at the beginning, we are using that three-minute testimony to ensure that everyone has time. So if you hear the timer go off, that's not to be rude, that's just to make sure everyone has an opportunity to testify. Go ahead and proceed. Thanks for coming down.

DAN SCHMID: Good afternoon. Dan Schmid, D-a-n S-c-h-m-i-d. I just want to thank you all for being here and thank you for Senator Brewer for his dogged pursuit of good regulations concerning wind towers. I'll speak what I want to speak that I gave to you. I'll start in on that, but I'm going to run out of time so I'll leave that largely up to you to read and ask me questions afterwards. If I see my yellow light come on, I'll go to two points that I want to finish up with. I'm against wind energy in totality. It's a waste of money. It's an eyesight on the landscape. Over in Germany where they've had it for many years and they're pushing it more and more, it's higher cost, higher grid and maintenance costs, higher CO2 emissions. I'll address real quick, I'm from a nonzoned county. We had a threat of 200 mega, megawatt windfarm. There were zero hearings on it. It was there two years. They were signing people up before most of us even knew they were in the area. So, no, there's not always public hearings. And wind energy, every time you see one of these wind blades go down the highway just think to yourself, where is that blade is going to be in 15 years? It's nonrecyclable. Most of them right now are heading over to Africa to be dumped in landfills over there. It's, there's, takes just that, you emit just as much CO2 to build a wind turbine as other forms of energy. Just think about some of that. I want to address one of the biggest threats that I think off these termi, these turbines is infrasound. Some of the properties of frequency range at point .01 to

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20 hertz. It's inaudible to the human ear characterized by high wavelengths. And why is this important? As a rule of thumb the thickness of a barrier must be on the order of the wavelength. So if you want to stop a one hertz infrasound single signal you're going to have to have a barrier on the order of 343 feet. Twenty hertz 17 meters. It is harmful to expose humans; more on this later. It's an agent of disease. Coming from a wind turbine this infrasound energy is pulsed and that makes a difference on the biological response. It's amplified within the walls of the house, so measurements should be taken within, say, the bedroom or within the house. It can be amplified on the, I see my yellow light. I'm going to jump to a couple of concerns on this bill. I would like, because infrasound cannot be measured by dBA measurements, there is a huge drop off as integrate, as indicated by these graphs. The measurements should be dB linear, which would record both audible signals and at the lower frequency spectrum it would record those infrasound signals. My, another, my other area of concern, it's hard for me to argue against local control, but our board in, in where I live, I have very serious concerns about whether or not these boards, if they are forced to set up these some kind of wind turbine standards. I would almost argue that they're going to be written by the wind turbine companies, because they know, most of them know nothing about these wind turbines. And like I say, they were in our area, sorry, two years before we even knew they were there. And the local commissioners, supervisors they get bowled over by money, influence, etcetera.

La GRONE: Well, thank you for your testimony. Are there any questions?
Senator Blood.

BLOOD: Thank you for your testimony. I know you probably had a lot more you want to share.

DAN SCHMID: I did.

BLOOD: And I'm sorry it's only three minutes. What county do you live in, please?

DAN SCHMID: Butler County.

BLOOD: And so you say there's zero zoning but you just said you did have a county board?

DAN SCHMID: We have a county board, but we're not zoned.

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BLOOD: So they don't, they aren't responsible for any zoning whatsoever?

DAN SCHMID: Correct.

BLOOD: And they don't have public meetings?

DAN SCHMID: When this wind company came in they said, none of our business, a matter between private landowners and the wind company. That's why they were signing up before we knew they were in the area.

BLOOD: So in the last election cycle did you vote him out?

DAN SCHMID: My little district we have a new member, yes.

BLOOD: Thank you.

DAN SCHMID: Thank you.

La GRONE: Thank you, Senator Blood. Are there any further questions? Well, thank you for your testimony and thanks for coming down.

DAN SCHMID: Thank you all.

La GRONE: Next proponent. Welcome to the Government Committee.

DEAN SMITH: Mr. Chairman, members of the committee, thank you for this opportunity to speak. My name is Dean Smith, D-e-a-n -S-m-i-t-h. I'm from Brunswick in Antelope County. Thank you, Senator Brewer, for introducing LB373. And I had too long a prepared so I'll, I'm going to try to go through it. Hopefully, you can follow along with the material. I want to try to walk you through some of the issues that have developed in Antelope County developing to wind energy. The last conditional use permit granted or the most recent was in December 2018. When that project is built there will be approximately 340 towers in Antelope County. Antelope County is 857 square miles. That relates to one tower every two and a half square miles. There is no other county in the state even close to that density. In late 2015 is when Invenergy applied to the zoning board for the upstream project. That is when I started taking an interest in wind development impacts on the community. What I started to find out concerned me. There's not enough time to go through them, so I will present the county road setback issue. Item one of your packet is a GE document, Ice Shedding and Ice Throw. Page 1, the lower left is highlighted. The turbine setting. And then on page 2 is a drawing of the towers that are built

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in upstream as on file with the zoning administrator and Antelope County. The math on that setback is 833.25 feet. That is what GE recommends for distance from roads for towers built in areas with icing. Now page 3, at the bottom of that page are the Antelope County zoning regulations, road right-of-way setback, 1.1 times the length of the rotor blade. If ice braking, meaning slowing down, procedures are put in place. That number is 205.7 feet. Antelope County has a setback of 205.7 feet. GE, the manufacturer of the wind turbine, suggests 833.25. Page 4 is a site plan. On the legend on the right hand side you can see that the setback from the roads is 209.3 feet, which complete, complies with the zoning regulations if equipped with the ice braking system. On that page you can see a little yellow circle with the number 53. That's referred to tower 25, if it's equipped with the ice braking. I guess I'll hurry along here. On pages 5, 6, and 7 are pictures of the ice that has landed on the county roads from that Tower 25. So Antelope County has zoned and we followed the regulations. There are certain situations that need to have guidance from a state level, as many things do in our daily business dealings in the state of Nebraska. I truly believe setback from county roads and nonparticipating residences and low level noise generation need to be uniform and safe across the state. Thank you.

La GRONE: Thanks for your testimony. We'll go ahead and open up to any questions. Are there any questions? Seeing none, thank you so much for coming down. Oh, sorry. Senator Lowe.

LOWE: Thank you, Vice Chair, for finally recognizing me. And thank you, Mr. Smith, for traveling to come down here. You were commenting on the throwing of ice from these blades. Would you like to continue for just a short period of time?

DEAN SMITH: Well, yes, yes. And that's what I'm getting at. These are equipped with the, ice that, the winter ice mode operation. The local zoning commission and the county commissioners had set this up after going through the hearings. The hearings get very emotional, very influenced. In a small county your zoning board and your county commissioners can have signed agreements with entities that they are attempting to put zoning regulations on and that, and that complies. When you're in a small population base you run out of people to serve on those boards and they'll get weighted to that direction. And those people will get vocal. And I've sat through, ever since 2015 I don't know how many hours of these. They get very emotional. And the thrust from the proponents ends up winning out and that's why we need state

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help on getting us a setback that has, that's a minimum to help offset that. We have to have some kind of, I'm not in favor of state control by any means, by any means. But there are certain things that we deal with every day in our life in the state in Nebraska that has state regulation at the heart of it. And I think this is something that does, that requires that. And I guess I did want to, I mean, I hope you can look through that and you can see that. Antelope County is the largest megawatt producer in, in the state. We've had some experience.

LOWE: All right. Thank you very much.

DEAN SMITH: Thank you.

La GRONE: Senator Hunt.

HUNT: Thank you, Senator La Grone. Thank you so much for being here, Commissioner, and I thank you for taking the time to drive here and come stand up for this bill. Are you aware, do you know what the annual revenue is an Antelope County? How much, how much annually does wind bring into landowners there?

DEAN SMITH: Well, to landowners, I, I don't really know because that's a confidential number. As far as how much rent is per tower that's, that's a very confidential agreement between the wind developer and the landowner. It's specified in there that it cannot be, I've never, all there is, is, is estimations that people have used. But I, not as far as rental income. Now, I do, I don't have it with me. I do have the, what the tax generated would be, but I, that number is, is tightly held.

HUNT: OK. Do you know about the, about the tax revenue generated?

DEAN SMITH: I don't think I have that with me right here. It's, we're the largest one in the state.

HUNT: Yeah.

DEAN SMITH: If I was to guess, the last time I looked at the state Department of Revenue it might be over, I'm going to say over \$500,000.

HUNT: OK. I don't want to ask you to speculate so I can find that out, too. Also, you have testified that the, that the setbacks for these windmills would be important to you to prevent ice throw in other public safety issues and natural hazards like that. Would you also

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hypothetically support setbacks for other forms of energy that have dangerous aspects for public safety, like oil pipelines?

DEAN SMITH: I guess I, I don't know. Kind of my passion has been the wind energy and that's where I've focused ever since. Like I said in that testimony, since 2015 I've kind of I guess specialized or, or just focused on that. I suppose if there would be a, yes. If there's a public safety issue and a potential liability to a county government down the road which is unforeseen but has to be somewhat taken into consideration on, on these projects.

HUNT: Thank you, Commissioner.

DEAN SMITH: OK, thank you.

La GRONE: Are there any further questions? Seeing none, thanks for coming down.

DEAN SMITH: Thank you.

La GRONE: We'll move to the next proponent. Are there any additional proponents?

AMY BALLAGH: Somebody had to tell me how to get here today.

La GRONE: Thanks for coming down.

AMY BALLAGH: Yes. My name is Amy, A-m-y Ballagh, B-a-l-l-a-g-h. And I am handing out my statement, but like everyone has said before it's a little hard to say everything you want to say in three minutes. So after hearing a little bit of what's gone on behind I'd just like to kind of jump into that. I hear that a lot of the questions are, should, why are we just having restrictions here in this bill for setback for wind energy? Why not pipelines? And I have my personal feeling is maybe that's something that you wouldn't want to have everything all in this one bill because there's a lot of different issues related to each one of those topics. But I, I would think that most people would say, yes, if there's a problem we need to be addressing that. As I see it, LB373 is a simple, yet ingenious bill, because it's bridging a widening gap that we're having as we encourage more wind energy into the state. And my, the main reason I support this bill is because the voices of the nonparticipating landowners are just not being heard. We don't have commissioners like you think of here where you work in the capital of government all the time. Our commissioners, they are elected but they're really just community

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people that have time to come and come to the meetings and try and do their best. And they go to continuing education and they try to learn. But when we go to their meetings a lot of times they're completely unfamiliar with what we're talking about. My county, I'm from Garfield County, our county does have a zoning board and we do have some zoning regulations on wind, but they didn't know what to do so they just copied Lancaster County and pretty much it's word for word what was there. I think that Senator Brewer's introduction of this bill would be really good for the fact that it would require counties to think about zoning. Some of these small counties that I'm next to do not have zoning and they've never really thought about it. And you know cowboys didn't used to like fences and they see zoning is kind of like fences and they need to understand that zoning can be for the good for setting up a situation that can be protective and proactive with things that are coming up. So I think a bill that would encourage them to get some zoning in place would be great. I don't think that three miles is unreasonable at all. We're talking about a lot of space out there. Senator Blood, you asked about how what would be metrics for losing property value and you know way out there a lot of the metrics would be centered around perhaps view or the sound or things like that. That's kind of what properties sell for. That's why they sell for prices out there and so it would be reduced from that. I would really encourage, this bill is not about wind energy, whether you like it or not. And so we've kind of got into that discussion a little bit. I don't think this bill is really trying to stop or ban wind energy, it's not trying to promote wind energy, it's just saying if we're going to have wind energy, let's look for a way to protect these people who don't have a voice, that when wind energy companies come into our rural areas we live far enough apart communication is hard. And so we don't hear about it until it's long past where it could have been. And as was mentioned, because county commissioners in our area are progressive people, they want to do what's best and they hear the term green energy and they're like, yes, let's go for it. My family, my home's, not my family but my husband's family had wind energy when they first homesteaded because that was a cheap way to have energy. But it was not reliable so that's where they stopped with it. So when some people hear green energy, they're like, oh, yea, green energy. But there's not really, that's a, that's a misnomer in some ways. I just think that it would be a really good idea to look further at this bill and move it into General File. And I appreciate your time today and I'm sorry and I hope you'll take time to read the other comments I have. Thank you.

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La GRONE: Thank you for your testimony. Are there any questions?
Senator Blood.

BLOOD: Thank you, Vice Chair La Grone. Thank you for your testimony
and I will read this.

AMY BALLAGH: Thank you.

BLOOD: So I have one question for you. So I keep hearing the message
that it's really about the zoning. So if it's really about the zoning
that we're asking them to do, why are we mandating the setback until
they get their stuff together?

AMY BALLAGH: Because unless there's a mandate there's going to be a
big rush, especially for wind companies that know a county doesn't
have zoning. They're going to, there's going to be a big rush to try
to get their wind projects into that. And then these landowners that
don't have a say and are not participating in the project, they're not
going to have any way to be protected from it. So if you put a, do you
see what I'm saying?

BLOOD: I do.

AMY BALLAGH: If you put a setback, and it's only limited to two years.
And two years sounds like a long time. When you get old like me it
sounds like a really long time.

BLOOD: It is by a developer and you have money invested.

AMY BALLAGH: But it's important. Right. Right.

BLOOD: People have big time money invested and--

AMY BALLAGH: That's correct.

BLOOD: Then you see them wanting to punish the developers, too.

AMY BALLAGH: But I don't think they're punished. And a lot of where
they're wanting to put them, it would be very possible to have
three-mile setbacks without inconveniencing someone. I mean, when you
look around here you'd be going, how could we get three miles from
anybody's house? Out there that's really easy.

BLOOD: Well, there is a aspect of the bill that does punish.

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AMY BALLAGH: What would you say--

BLOOD: And I can't remember what it is right now, but if you will e-mail me I'll e-mail you back the part I found so. So the--

AMY BALLAGH: But it punishes who though when energy--

BLOOD: The developer, so we're putting some liability there that really the property owner only already has the ability to hold that person liable, based on what contract they signed.

AMY BALLAGH: But they're not the nonparticipating ones. And that's, that's what I think this bill's protecting, is the nonparticipating ones.

BLOOD: What, why do you say that you don't have the right to sue them or do something now? Because, I mean, you have the right--

AMY BALLAGH: I didn't sign the contact, contract.

BLOOD: No. But, OK, as a property owner you have the right to privacy and you have the right to use and enjoy.

AMY BALLAGH: Correct.

BLOOD: OK?

AMY BALLAGH: Correct.

BLOOD: So if they're infringing on your property you do have a legal right to do something about it.

AMY BALLAGH: So have you seen cases where neighbors have tried to sue a wind company and say, look, we're going to flicker all the time, we've got blinking lights all the time, we can have this infrasound in our house. What do we do about it? They have, they have no recourse. You know, it's not their property. The other property rights of the property and I haven't read anywhere where anybody's ever got repaid.

BLOOD: There are, you do have the right as a property owner. That's one of your rights is to be able to say that that this wind turbine or this, this, what's another good example? Maybe this feedlot that just went into your property is going to change how you use and enjoy your property. You do have legal rights do that right now. You're just saying that you've not--

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AMY BALLAGH: Not particularly, and I think that's another good reason for this bill because it would solve a lot of that probably. You wouldn't have all these lawsuits going on because you would have this protection in place with the local control with the counties developing their local zoning and then just for two years to make sure that no one jumps in and tries to get ahead of what the county wants to do, you have that one provision in there that said there'd be a setback for them just in the meantime.

BLOOD: So I keep hearing local control, but some of what you're saying--and this is no offense to you in any way--

AMY BALLAGH: No, that's all right.

BLOOD: To me, it sounds like government overreach a little bit.

AMY BALLAGH: How can local control overreach though?

BLOOD: Well, it's not really local control if we're telling them what they have to do. And we're mandating why you can't do anything for--

AMY BALLAGH: Do you don't like zoning for--

BLOOD: I think that if we're just looking for zoning that we are looking for a different bill. So I don't disagree on the zoning and I don't disagree that you have rights as a, as a property owner. I think you already have the right to sue if they're infringing on your enjoyment of your property. And that's, so do you see where I'm come from? I think that there's some gray areas that may need to be addressed, because what I'm hearing you say that you guys want and what I'm seeing what this bill does are not necessarily the same thing. So that's my concern.

AMY BALLAGH: There's probably some verbiage that isn't maybe coming across. And so I would encourage the senators here in the committee to go ahead and discuss that and perhaps that's something that could be a simple remedy to, to make it so it's, but the non, nonparticipating landowners are really a victim. We don't have any recourse. I mean, I know you say you can sue, but what's that cost us? We don't have the payments coming in on it. And what's the odds that we will have any recourse? I haven't seen that in a good outcome so far. So, I mean, I'm not, I'm not trying to be an arguer and I'm going to let other people talk. But I do think that, that you bring up good points and I think it would be good for the, for the committee to talk about it. I

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just think this bill, it's simple, and it is really kind of meets a need that's out there without trying to threaten. It's not, you know, threatening, to me it's not threatening wind energy and it's not threatening landowners. It's just trying to say, let's work together and make sure we've got it right before those turbines are placed.

BLOOD: And I agree on the let's work together.

AMY BALLAGH: Good.

BLOOD: But what I disagree on is that that's what this bill does.

AMY BALLAGH: OK.

BLOOD: We will talk about it, though.

AMY BALLAGH: OK. Any other questions?

La GRONE: Are there any other questions? Seeing none, thanks for coming down.

AMY BALLAGH: Thank you. Thank you, Senator.

La GRONE: Are there any further proponents, proponents? Thanks for coming down.

MIKE ADAMS: Thank you, committee. My name is Mike, M-i-k-e, Adams, A-d-a-m-s, I'm a landowner in Cherry County. I'm also president of the Snake River Preservation Group who bought the Snake Falls Ranch. Snake Falls Ranch has Snake River Falls on it. Some of you may have been there. We've struggled to keep that open to the public. Myself and 47 investors bought Snake Falls Ranch at a high premium. Our charter says we're established to conserve and preserve and enhance the habitat of the Snake River Canyon and the Snake River itself. We're a working ranch and we use our income for those purposes. Our shareholders don't get any profit. I just want to tell you that property rights, you know, start and end where the next guy's property starts and ends. And so I don't dispute anybody's right to put up a wind turbine, as long as it doesn't detrimentally affect me or my shareholders. And Snake Falls Ranch is one of the most beautiful, quietest and darkest places in the continental United States. And wind turbines right now could be built within easy eyeshot and earshot of Snake Falls and, therefore, that will decrease our property values and what we've spent a great deal of money to enhance, not only for ourselves, but for the state of

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Nebraska. So I think this bill is, is, is a small step toward allowing all property owners to be heard. Thank you.

La GRONE: And thank you for your testimony. Are there any questions? Seeing none, thank you for coming down. Are there any further proponents?

WAYNE EATINGER: Wayne Eatinger, W-a-y-n-e E-a-t-i-n-g-e-r. And thank you, Senator Brewer, for putting this bill forward. My family and I ranch in Cherry County. My ancestor drove cattle, southern steers up into that valley in 1870s, so the traditions run really deep. You can probably imagine what I think of the industrial wind and where it blends in with the very special area, area like no other. And then, of course, you've heard about what's going on in Cherry County. And we do have wind regs that are inadequate. We do have them. And then of course during the last couple of years we've had a couple of, we have three, we have a huge county. You guys know how big Cherry County is, three commissioners. Two of them basically are investors and the other has a father and brothers that are investors, so it's a difficult thing. And the planning and zoning improved the setbacks, recommended new setbacks and the county board, two the members just dismissed them. And the Planning Commission had never been snubbed like that before, ever in the history of our, we've had zoning for 20 years. So that's the problem and we're still struggling with that as time goes along. I'm in favor of this. I'm amazed at the counties that don't have any zoning and I just think they're setting themselves up for problems. I'm very much in support of this. I think these citizens in these unzoned zone counties will fall prey to the irreversible effects of very heavy industry. And with industrial wind there's a learning curve. It is a very incomplete learning curve. It's ongoing in terms of unintended consequences, buyer's remorse, and it's happening as we speak. And there's resistance to wind all across the nation like we haven't seen. Counties must prepare themselves, especially in unique areas like the Sandhills where you have the aquifer and you have the flyover, unique areas. And the precedence, county residents must remember that once the precedent is set it's set. There's no going back and as other counties have sorely found out and had buyer's remorse, wishing they wouldn't have been bamboozled by the wind people and overrun by them. But that's about all I have here. And I appreciate all you folks. And I appreciate your time and would answer any questions that anyone had of me.

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La GRONE: Well, thank you for your testimony. Are there any questions?
Senator Blood.

BLOOD: Thank you, Vice Chair La Grone.

La GRONE: Yes, ma'am.

BLOOD: Thank you for my testimony. I just have a real quick one. I'm kind of listening. And since we've had more than one person from Cherry County. Do you have any issues with eminent domain when it comes to the wind turbines? Have you heard of any issues that way?

WAYNE EATINGER: Well, I think I have eminent domain power where it concerns access and feeder lines. I do believe that, and I think Senator Brewer has a bill addressing that. So, yeah, there are concerns.

BLOOD: How do people in your county feel about things like the pipeline?

WAYNE EATINGER: We'll, the only pipelines we have are water, stock water. I know in the eastern part of Cherry County there was a huge issue with the--

BLOOD: XL?

WAYNE EATINGER: XL, the XL pipeline and well, we sit on an ocean of water, so it makes us nervous. Pouring cement into that aquifer makes us nervous, too. There were hundreds of truckloads and the water table has come up in our areas, too. It's an amazing hydrology.

BLOOD: How far does that concrete go down?

WAYNE EATINGER: Oh, gosh. It's 40 feet. Somebody in there surely knows. Long way. And in the sand it has to go deeper.

BLOOD: Right. Thank you.

WAYNE EATINGER: Those things are huge. Alrighty. Thank you.

La GRONE: Any further questions? Seeing none, thank you for coming down here. If you're, if there anyone remaining to testify as a proponent, could you please raise your hands so we can see how, OK. At least two more. Thank you. Welcome.

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TYLER RATH: Thank you, Mr. Vice Chairman, members of the committee. My name is Tyler Rath, T-y-l-e-r R-a-t-h, I'm a 17-year-old undergraduate student from Thedford, Nebraska. I ranch with my family on our home ranch grazing and managing cattle in the vast Sandhills grassland in west-central Nebraska. I support Senator Tom Brewer's LB373 to ensure that all Nebraska counties pursue wind development in a sustainable and planned manner to be agreed-upon zoning and setback regulations created by the people. Currently, many Nebraska counties are pursuing wind development without the adequate regulations in place to protect citizen properties and rights. For example, in Cherry County the largest county in Nebraska at 6,009 square miles, develop wind regulations without much public input and wind regulations are so relaxed that they are virtually nonexistent. Consider one of the proposed wind facilities in southeast Cherry County, a 147 turbine facility called DSH Cascade LLC proposed by BlueStem Energy Solutions of Omaha. According to distance measurements of the Federal Aviation Administration registered locations of the turbines there are turbines, located within 90 feet of nonparticipating landowner property lines and 7,000 feet of nonparticipating landowner residences, and within 170 feet of the zoning jurisdiction of an adjacent county, Thomas County, to the south. Due to the lack of oversight when it comes to these matters, regulations are being developed largely at the discretion of proprietary investors when wind, when wind energy is introduced to new counties, thus infringing on the property rights of nonparticipating landowners as a consequence to be able to cite more turbines due to small zoning setbacks in a given area. In conclusion, the necessary steps should be taken to ensure the protection of citizen property rights in development issues, such as industrial wind energy. People should be allowed to develop their own regulations and LB373 achieves that objective to ensure everyone is heard and not just the developer. Thank you for your time and I'd be happy to entertain any questions.

La GRONE: Thank you for your testimony. Are there any questions? Seeing none, thanks for coming down.

TYLER RATH: Thank you.

La GRONE: I saw one more proponent that we're waiting on, I believe.

CLEVE TRIMBLE: My name is Cleve Trimble, C-l-e-v-e T-r-i-m-b-l-e. I'm a 34-year resident of rural Cherry County. I've got a head cold and I haven't been able to hear much of what you've said, Senator Blood, so if I repeat anything it's accidental and not on purpose. I'll address

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the points that Senator Brewer made kind of in order. The county zoning, and Cherry County, it's cattle country USA. The zoning says that its cows. And if you want to do anything other than cows you've got to get a conditional use permit. The conditional use permit requires notices to be sent, letters to be sent to all the surrounding landowners that would be affected. And any conditional use permit that is approved, you have to sign an easement that says you promise you'll never take offense to any industrial or any agricultural related nuisance. The key to what I'm saying here is that the setback for concentrated feeding operations is from two miles to a couple critters to four miles for very many. The cattle industry itself realized that the quality of life was important and they respected it. The difficulty with, keep in mind this building, my mother watched the sower be erected. The sower is about 400 feet in the air. If you go to hillocks, for 30 miles around you'll see it. That amounts to about 25,000 to 28,000 square miles that are affected by one 400 foot structure. The current wind turbines probably average 550 feet and they're going higher. If the subscribers for the wind enterprise in Cherry County all just put up one turbine, from any point in Cherry County you'd be able to look in almost any direction and you'd see something that was turning and churning and reflecting. The noise industry, it's been covered. The audible range, I'm a physician, but I don't pretend to be an expert on sound and I have heard a lot of other people's talk about it as an expert. It's, it's, it's still poorly defined. There have been some recent papers that have been authoritative which describe the spectrum of sound from very high pitched to very low. And what we can hear is somewhere in there and that's an area that has to be defined. The decommissioning, it's estimated, I've heard estimates of \$150,000 per unit to get it down properly. I don't know what the number is. They range all over. If you had ten units on 5 acres or 50 acres or even 500 acres in the Sandhills to take them down at \$150,000 apiece would never equal the value of the land. There's got to be an upfront requirement to do that. The, the impact of the construction itself, bringing them in, bringing them out. The Public Utilities Commission in South Dakota made TransCanada pay \$33,000 of guaranteed monies just to offset the additional damage to roads. I've got a red light. If, which reminds me that if Cherry County were covered with these things, we have, if you're looking at--

La GRONE: We're going to have to ask you to wrap up quickly so we can get in any questions and be--

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CLEVE TRIMBLE: Oh, I'm sorry. We, we have the cleanest light, night skies east of the Rockies. These things will ruin that, it'll turn into a red light zone. And the devaluations on properties are just being, the literature is coming out. Nobody's property around these things goes up in value. And what that does to the tax base in the future is absurd. I support Senator Brewer's, thank you for indulging me.

La GRONE: Thank you for your testimony. Are there any questions? Sir, we've got to wait and see. No questions? OK. Well, thanks for your testimony. Just double check, is there any final proponents? OK.

JUDITH RATH: Good afternoon everyone. I've submitted testimony, but I'm going to summarize as much as I can, so I'd appreciate if you'd go back and read it. My name is Judith, J-u-d-i-t-h, Rath, R-a-t-h, I am a resident of Thomas County, Thedford, Nebraska. I am in favor of LB373. Senator Brewer has initiated a bill that is offering simple guidelines for local governments to follow in regard to wind energy. It can be a starting point. In Thomas County we have started regulations for, wind energy is our starting point. We have been there for a year and a half working on these regulations. We plan to do solar, biomass is to follow, and whatever proceeds with it to make sure that we cover all entities in that county, because there is no way of predicting what will come next. These guidelines make a substantial difference in people's lives of those that are affected that live in these communities considering industrial wind facilities and solar rays and you can go on and on. These are industrial facilities, they are not commercial facilities. You will hear from several that will follow me that won't live under these turbines. We will. And I think that our voices need to be heard and we need to be considered. Rural communities, most of whom don't have zoning regulations, have minimal regulations or have no idea where to start. Zoning board members are volunteers and they are very hard to come by. And many times they don't last very long, because you have, for one, as far as the wind goes you have investor pressure. You have, the industry has already put in place what they need to make their projects go. In Thomas County, we have a chairman that is an investor. How do you argue with an investor? Senator Brewer has suggested setbacks, noise, and decommissioning, though it should not be limited to this it is a starting point, a very good starting point. It is the state's responsibility to give that direction to assure Nebraska's future that we all live in and prosper and love. And I want to reiterate, these zoning members are volunteers. They give up their

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time. They're not paid to be on this board. They don't come in, in a suit and paid to talk about promoting an industry. They represent the people that they rub elbows with in their communities. They go to church with, shop at the same grocery store, their kids go to school together, they live amongst these individuals. They bring life lessons to the table and welcome input and guidelines to give them direction to guide them and for the good of their communities.

La GRONE: Thank you for your testimony and thanks for coming down. Are there any questions? Seeing none--

JUDITH RATH: Can I add just one thing towards Senator Blood?

La GRONE: Quickly.

JUDITH RATH: You had brought up property rights. Two thousand nine is when they came into our community. We didn't find out until 2016. I grew up in north Omaha. OK? We're a first-generation rancher. I have two sons that I plan to pass this on to, our ranch. You talk about property rights, but yet the wind developer placed feeder lines across our property for two and a half miles and at no point in time were we considered. Nothing was brought up. For how many years? You have from 2009--

La GRONE: Ma'am, we do need to be respectful of others' time, so thank you for coming down. We appreciate your testimony.

JUDITH RATH: Thank you.

La GRONE: I believe that was the end of our proponent testimony. So we'll now move to opposition testimony. Can those in opposition move towards the front of the room so we can be quicker about expediting the process?

JOHN HANSEN: Good afternoon, members of the Government, and Military and Veteran Affairs Committee. For the record my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I am the president of Nebraska Farmers Union and also serve as their lobbyist. I prepared a packet for you of just some basic information about wind and renewables. And so the first part in that handout is the one that details the level of involvement in Nebraska with wind and wind energy development. And so this is a very substantial industry. We have 1,452 megawatts of wind established so far in the state of Nebraska. The second is the map of all of the different wind projects and their size and their history

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and their date and when they were established. The map on the back gives you the map of the various states in the United States to give you an idea of how we stack up in the neighborhood. Nebraska has 1,452 megawatts; South Dakota, 977; Wyoming 1,489; Colorado, 3,106; Kansas, 5,110; Missouri, 959; and Iowa who have substantially less wind resources than we do has 7,312 megawatts of wind. So what I have done in conjunction with the Nebraska Energy Office and the Nebraska Ethanol Board has put together a fact sheet, which is the next one, which documents the sort of the nuts and bolts and the economics of both wind and ethanol to renewable energy sources, both value added, both helping build a new capital investment, new farm income in rural communities. So when we look at wind we're seeing at least \$5.8 million of new annual income. We're looking at \$9.4 million of new local tax revenues. And so we are, this is a very substantial entity. And so if you look at these numbers, David Bracht, who I think is maybe here today had an excellent Op-Ed in The Omaha World-Herald that uses these numbers and explains why we need to continue to be open for business. We have made a lot of progress in the last five years. We have a lot of projects in place. We are strong supporters of local control. This bill, in our judgment, undermines local control. I've been before this committee for over 30 years championing the virtues of local control. And I have helped establish with my organization about half of the counties in the state of Nebraska for planning and zoning at one time or another. And I helped initiate the efforts to establish planning and zoning in Madison County. So I think I'm probably qualified to decide what does or doesn't undermine local control. And in my view, this does. Thank you.

La GRONE: Thank you for your testimony. Are there any questions? Seeing none, thanks for coming down.

JOHN HANSEN: Thank you.

La GRONE: Next opponent. Welcome.

DAVID CARY: Good afternoon. Thank you. My name is David Cary, D-a-v-i-d C-a-r-y. I am the director of the Lincoln-Lancaster County Planning Department and I'm here on behalf of Lancaster County to provide testimony in opposition to LB373. I want to thank the members of the Government, Military and Veterans Affairs Committee and Senator Brewer for your time today on this matter. I would also like to just preface this by saying that my comments and our position on this was on the original reading of the bill with the discussion about the amendment that has come through with the option of having local zoning

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in place to deal with this matter differently. We would want to look at that a little more closely as well. But this is testimony based on the original reading of the bill. In our opinion, LB373 provides for state-imposed setback and zoning requirements for wind energy generation projects on local jurisdictions. The concern Lancaster County has with this legislation is the loss of local control, local zoning and regulatory rules control related to the topic of wind energy. In December of 2018, Lancaster County took action using its local zoning authority to regulate wind energy projects. The result of this action provides for a reasonable local policy to regulate wind energy in Lancaster County based on a local decisionmaking process and expertise from the Lincoln-Lancaster County Health Department in appropriate health-related research on this topic. Guidance on this topic of wind energy is also provided locally through the Lincoln-Lancaster County 2040 comprehensive plan. This guiding document provides policy guidance and is also the result of a local decisionmaking process. Lancaster County believes it is important to continue to allow local jurisdictions to develop and enforce their own zoning regulations related to wind energy projects. This point is applicable to many other topics of interest that are also regulated by local zoning. Therefore, it is the position of Lancaster County to oppose this legislation based on the need to retain local regulatory control over important issues such as wind energy. Thank you for the opportunity to speak on this matter today and I'd be happy to answer any questions you might have.

La GRONE: And thank you for your testimony. Are there any questions? Seeing none, thank you for coming down.

DAVID CARY: Thank you very much.

La GRONE: Next opponent. Welcome.

LISA WIEGAND: Welcome. Thank you. My name is Lisa Wiegand, W-i-e-g-a-n-d. It's with great respect that I address you and thank Senator Brewer for introducing this bill. I'm here representing Gage County, the planning commission and also the board of supervisors. We're talking about the original text that was first introduced. We want to express our concerns with that. While the letter of intent explains that you're not going to override the local jurisdiction, there is some question as far as the language is concerned. In 1999, our county adopted zoning. Then as a participation from landowners and wind energy became very prevalent that it was going to come to Gage County, it was necessary that we began the wind regs and adopting

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those, which we did in 2012. We want to be clear and understand the fact that this will not override the existing regulations that we have in place. In 2013, we approved a project in the southern part of our county which we now have 4 or 13 wind turbines in Gage County. We have adopted our wind regs that create that balance between those that choose to participate and those that choose not to. The handout that I have given you today is the inclusion of all of our regulations. You'll see that we address single energy systems and also commercial energy systems. In addition to all those things that you have talked about today, the setbacks in particular, decommissioning, also height restrictions. In addition to the requirements of site prep, planning, dBAs being addressed, too. In this particular bill, LB373 proposes a three-mile setback. And so that certainly was a concern for us. It also looks at removing the opportunity for wind energy to have a variance. You've struck that particular portion out and left solar energy in there. And then the variables in the heights. The variable in our county because of the topography and the land use and our land density, height of the turbines themselves can vary considerably. So Gage County feels strongly that this legislation impose a moratorium for any future development, based upon our county's demographics and land use. That reflection between zoning and the quality of life should be written with guidelines specific for our county and not as a standard good for all. So, as I said, I've included that copy in there and I would entertain any questions that you might have of Gage County.

La GRONE: Thank you for your testimony. Are there any questions? Seeing none, thank you so much for coming down.

LISA WIEGAND: Thank you.

La GRONE: Next opponent. Welcome.

ELAINE MENZEL: Vice Chair La Grone and members of the Government Committee; hesitated which committee I was in front of. I had some prepared testimony, but I think what will be most beneficial because I think the previous testifier, first, for the rector, record, my name is Elaine Menzel, E-l-a-i-n-e M-e-n-z-e-l, here on behalf of the Nebraska Association of County Officials in opposition to LB373. First, I would like to thank Senator Brewer and his office for trying to work with us and trying to come up with some language that would be agreeable to our association. However, we're not quite at that point and, therefore, we're here in opposition. We will be glad to try to continue to work towards a resolution and hopefully we can do so. I

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want to, first, a map that is being sent around will show you the counties that are zoned in Nebraska, and there are 83 of those counties that are zoned. The, I apologize, and at this time only the ten that are not are: Banner, Blaine, Platte, Butler, Nuckolls, Richardson, Nemaha, Thurston, Wayne and Dixon. And kind of a little bit about the history of county zoning in Nebraska. I believe it was 1967 or 1969 that county zoning was authorized. There was about 25 to 30 counties that had site zoning prior to the 2000s and then about that time several counties became concerned because of the large confinement facilities that were coming into Nebraska. And at that time they gave a temporary zoning a couple of years for counties to adopt zoning in the event they chose to. And at that time a larger number of those counties became zoned. In terms of the specific issues, it's local control, the potential cost to those counties that have wind energy zoning at this point, and potentially having to rewrite those zoning regulations. And then in terms of having public input, there's at least three times for public input, if not six or so because of the comprehensive development plan, the zoning regulations, and the conditional use permits. Each of those generally will go through not only the county planning commission, but then also the county board for their approval or disapproval of those things. Each of those require a hearing and/or are subject to the open meetings laws. Therefore, it gives the public an opportunity to provide input. At this time I would go ahead and take any questions if you have any of me. Thank you for your time.

La GRONE: Thank you for you your testimony. Are there any questions? Senator Blood.

BLOOD: Thank you, Vice Chair La Grone. Just a quick question. You may not be able to answer this. So we heard at least one or two stories of where people say that a wind turbine was put up on an adjoining property and then there were things that pertain to that wind turbine that also ended up going on the neighbors' property but they were not asked permission, that it was just placed there. Are you, is that, is that something that you see? And if so, why is that?

ELAINE MENZEL: I guess in terms of the technicalities with wind regulation, I'm not able to specifically answer that. I think it's going to be similar to a lot of property rights that individuals are going to have causes of action against another property individual. But as far as specifics I'm uncertain.

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BLOOD: So say like wiring or some kind of conduit or something that was on a neighboring property, wouldn't that first go through zoning or not?

ELAINE MENZEL: If it's zoned county, probably. Yes.

BLOOD: And there's only ten that are not zoned.

ELAINE MENZEL: Correct.

BLOOD: And I know it's Nuckolls, some of the ones that were actually mentioned today, so.

ELAINE MENZEL: If, and if you'll just allow me to note that that is a local control decision as well in terms of that those counties have generally considered whether it's appropriate to be zoned or not themselves along the way. And through the years some of the, six of the ten at least have adopted comprehensive development plans, but they've not gone on to adopt the zoning regulations that are required

BLOOD: Fair enough. Thank you.

La GRONE: Are there any further questions? Seeing none, thanks for coming down.

ELAINE MENZEL: Thank you.

La GRONE: Next opponent. Welcome.

MARK WALTER: Good afternoon, Vice Chairman La Grone and members of the committee. My name is Mark Walter, that's M-a-r-k W-a-l-t-e-r, and I'm the director of legislative and regulatory affairs for Trade Wind Energy. Trade Wind Energy is a utility-scale wind and solar development company based out of Kansas City with around 150 employees across the country. We're responsible for over 5,000 megawatts of wind and solar development nationally, including the development of the 320 megawatt Rattlesnake Creek project in Dixon County, which is owned and operated by an Enel Green Power. And I have handed out testimony from an Enel Green Power as well. They were not able to attend today, but that was turned in yesterday. We have a second facility currently in development, Haystack Wind, which is located in Wayne and Pierce Counties. Haystack is a 300-megawatt project that is scheduled to come on-line in 2020 and would have a total capacity expenditure of \$350 million. It is expected to pay approximately \$2.3 million dollars in annual landowner payments and an additional almost \$1.3 million

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annually in local taxes. These rural investments are an excellent way to provide property tax relief while not substantially increasing the burden on local schools, housing stock, or other local infrastructure. Trade Wind opposes LB373 which would effectively prohibit wind development in the state. The provision requiring three-mile setbacks from any residential dwelling is the most burdensome setback provision that I am aware of in the country. And the remaining language in section (2) (a) would surely create an influx of frivolous litigation for any wind project. We believe the remaining provisions to be unnecessary, as counties and townships already retain and have regularly exercised the authority to create zoning provisions for wind in their jurisdiction. Nebraska is seen as a business-friendly state and this change in law would tarnish, tarnish that reputation. Due to the timing of the planned phase out of the federal tax credits in the wind industry, LB373 would effectively ensure that states surrounding Nebraska siphon planned investments away from the state in the near term and would remain a significant hindrance on Nebraska's clean energy sector for many years to come. For the reasons outlined above, we ask could you please vote no on LB373. Thank you for your time and I'd be happy to take any questions.

La GRONE: Thank you for your testimony. Are there any questions?
Senator Hunt.

HUNT: Thank you, Senator. Thank you so much for being here. I want to ask you a question I asked earlier. Do you know how much annually wind development brings into our state?

MARK WALTER: I have a one-pager that I can give to you that talks about some of that stuff. I don't have it on hand, it's provided by the American Wind Energy Association.

HUNT: Sure. If these regulations are adopted, how will that affect the feasibility of wind development in Nebraska?

MARK WALTER: So I said it briefly in my testimony, but it's important to understand that the next two years of wind development in the country are critically important because we're phasing out the, the wind production tax credit. So that's a planned phase out that's been in the industry for several years now. As that credit phases out developers like Trade Wind and others have more wind projects than they have money to build wind projects. So we're going to naturally choose not to build certain wind projects depending on, you know, whether or not it's feasible, whether or not there's transmission

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available. There's a whole host of, of, of things that will make us choose to build or not build a project. A bill like LB373 would, would definitively take Nebraska into a pro-wind column and move it into an anti-wind column. So in the next two years companies would, would almost certainly be choosing to invest in states like Kansas or Iowa or Oklahoma or North Dakota where those investments would be safer. Does that answer your question?

HUNT: Yes. Thank you, sir.

La GRONE: Are there any further questions? Seeing none, thanks for coming down.

MARK WALTER: Thank you.

La GRONE: Next opponents. Welcome.

DARBY PAXTON: Thank you, Vice Chair, Senators. My name is Darby Paxton, D-a-r-b-y P-a-x-t-o-n. I'm the executive director of Holt County Economic Development. Speaking from an economic development standpoint, the Grande Prairie wind tower projects in Holt County, I have found their presence to have a positive effect on our economy. Speaking to business owners in and around O'Neill, I'm here to report that the gross sales from the year of construction on the wind towers were their most profitable to date. During the 2016 year of construction total sales tax revenue increased by \$145,666. In 2017, \$556,000 was the increase in property taxes in Holt County, not to mention the \$1.4 million in nameplate tax. Understandably, we need to address concerns brought on by the large-scale construction of wind tower production. Our Holt County supervisors and local officials were successful in mitigating the impact as well as addressing any post construction needs and damages. Berkshire Hathaway Energy made improvements to 72 miles of county roads, thanks to road haul agreements constructed by our county supervisors. I'm asking to continue to allow local government to work with the developers and landowners to make this profitable for our counties as well as making sure this is not oppressive to any individuals. By applying statewide regulations on noise restrictions and zoning distances for wind turbines now you are opening the door to restrictions on future projects that create revenue for our state. Livestock- and agricultural-related businesses can be just as loud and may need distances set as well, but without these industries in our county our revenue sources would die. Economic development relies on the people that live and work in the communities to be able to make decisions

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that affect them. Allow our landowners to choose whether they want to further profit from their land. Allow our businesses to make a profit beyond their projected income. In a recent study published by the Nebraska Center for Rural Affairs they found no evidence of any effect on home prices in proximity to wind turbines. We can't always predict the impact that accompanies a wind tower project. Not only did the Grand Prairie wind project create 25 quality jobs, but it also is the reason that O'Neill Public School is able to expand their facilities with a \$13 million project without a bond. It is also the reason Transportation Partners and Logistics chose Holt County for their wind tower storage facility. TP&L services a 300-mile radius with wind towers. This company and its 25 full-time employees purchased land, leased buildings and land, and generates great revenue for our local businesses. Over 1,000 truckloads of wind tower components were brought into O'Neill and they continue to flow in and out of our county daily, altogether 50 jobs were created in our county because of one windfarm. In a county that struggles with population loss and high property taxes, please continue to allow us the ability to use the one renewable commodity we have, wind.

LaGRONE: Thank you--

DARBY PAXTON: Thank you.

La GRONE: -- for your testimony and we'll now open up to questions. Senator Blood.

BLOOD: Thank you, Vice Chair La Grone. Just a real quick question. I'm, I'm real quick trying to see this research. So they say in this research that in reference to finding no evidence of have an effect on home prices and proximity to wind turbines, that it was 27 counties located in nine different states. Do you know what states those nine states were that were part of the research?

DARBY PAXTON: This is a Nebraska business. I assume that when Nebraska was one of those businesses, but no I don't know the other counties that were.

BLOOD: Yeah, I can certainly look up the research when I get back to my office. Thank you.

La GRONE: Any further questions? Seeing none, thanks for coming down. Thank you very much. Can we just do a quick check on how many

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opponents we have remaining to testify? OK. We'll take the next opponent. Welcome.

MARILYN McNABB: Thank you. Committee and Vice Chair, I'm Marilyn McNabb, I live at 1701 West Grove Street in Lincoln. I'm a volunteer with Citizens Climate Lobby. We're a nationwide network of volunteers. We're working in every Congressional district. We're mainly working on federal legislation. And one of the handouts is about that legislation. It was recently endorsed by 27 Nobel Laureates, two former chairs of the Council of Economic Advisers, and two former Secretaries of the Treasury. So I said that mainly to say we're careful about the economic effects of policy. Republicans and Democrats went together to make a statement. I want to address very briefly our views on LB373. Efforts to stop the construction and use of clean energy generation are simply futile. The direction of energy generation is toward wind and solar and away from fossil fuels. A week ago the U.S. Energy Information Administration issued its annual energy outlook 2019, reported that coal is expected to decline, largely as a result of retirement of coal plants and competitive price pressure from natural gas and renewables. From 2018 to 2050 renewables are predicted by the EIA to go from 18 percent to 31 percent of U.S. generation. The EIA has consistently underestimated renewable energy growth and I've found a number of articles saying that's way too low, but that is what they said. And that's quite significant in itself. The direction is unmistakable. In November the word, World Meteorological Organization issued a state of the climate report. It said the 20 warmest years on record have been between, in the past 22, with 2015 and 2018 making up the top four. These are huge problems. So what does it matter what Nebraska does? Well, it does matter. As the deputy secretary of the WMO said, every fraction of a degree of warming makes a difference to human health, access to food and fresh water, to economic productivity, and to the risk, resilience of our infrastructure and cities. Nebraska has a wonderful potential for wind generation. It is one of the industries of the future and I hope that what the committee does, does not discourage that. Any questions?

La GRONE: Well, thank you so much for your testimony. Are there any questions? Seeing none, thanks for coming down.

MARILYN McNABB: It's something different anyway.

La GRONE: Welcome to the Government Committee.

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PHIL CLEMENT: Thank you. Good afternoon. Vice Chair and the committee, thank you for having us today. My name's Phil Clement, P-h-i-l C-l-e-m-e-n-t, and I'm the project director for renewable development here in Nebraska for NextEra Energy Resources. So I just want to bring up a couple of points and then I'll be available for questions. The first point I want to bring up is, these are all voluntary. You know, if the community wants a windfarm then we have to go to each individual landowner and get an easement. We have zero rights to eminent domain for any of our structures or any of the infrastructure that's needed. We cannot go across someone's land and put up a line, that's just, it's illegal, we'd be trespassing. So this is completely 100 percent voluntary. If people want to participate they can, if they don't they won't. So we've been in four counties within the state. In talking to the commissioners of those counties, we have received, they, they've told me they have received very few complaints about the windfarm once it's been operating. And one of our counties that we're in, in Wayne County is a nonzoned county, but there were a multitude of times for people to input and we would go to the board, we'd have discussions with the board. People would come to the board meetings and we'd have dialogues for hours talking about the different aspects of the windfarm. So, I mean, I can't speak for every county in the state, but certainly in a nonzoned county in the state the public had a lot of opportunities for input. A couple of things that were brought up today, the decommissioning plan, roads agreements, and then one other thing, environmental compliance, are all addressed by the Nebraska Power Review Board. And before a project has to go to construction we need approval from the Power Review Board and those are three things that we have to show that we are going to get. So that's, that's, the state of Nebraska's already taking care of that. Just some other things, infrasound has never been confirmed by any reputable peer review study. It just hasn't been found. Property values, I mean, can't speak to all property values but we try to locate most of our turbines on agricultural land. And when they have sums of consistent cash flows coming in each year that increases the value of that property because the wind turbine stays with the property. So that just, that just increases the value of that property, particularly. And then economic development. You know, at Sarpy County, you know, Facebook is building a datacenter. There's another datacenter likely going to Sarpy County here in next couple of years. They're coming here for one reason. They're coming here for the renewable energy. And before LB824 was passed a couple years ago, they

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were going to Iowa. So they're coming here again just, just for one reason. So with that I'd like to see if you have any questions.

La GRONE: Well, thank you for your testimony. Are there any questions? Senator Blood.

BLOOD: Thank you, Vice Chair La Grone. Just a really brief one and I'm going to kind of be on Front Street on this one and I apologize.

PHIL CLEMENT: Sure.

BLOOD: So in your experience have you ever been aware of any neighbors that are next to this equipment suing your company because they feel that you've devalued their privilege to enjoy their own property?

PHIL CLEMENT: As far as I'm aware we've not been sued for that.

BLOOD: OK. Thank you.

La GRONE: Any additional questions? Seeing none, thanks for coming down.

PHIL CLEMENT: Thank you very much.

La GRONE: Next opponent. Mr. Levy, welcome back to the Government Committee.

DAVID LEVY: Thank you very much, Vice Chair La Grone and senators, members of the committee. David Levy, D-a-v-i-d L-e-v-y, Baird Holm law firm here today on behalf of BHE Renewables and delivering testimony of BHE Wind president, Thomas Butler, who could not be here today but wanted to, me to deliver this testimony in opposition to LB373. BHE Wind is a subsidiary of BHE Renewables, which is a sister company with Iowa's largest regulated utility, and MidAmerican Energy. BHE serves 11.4 million customers worldwide and BHE Renewables owns more than 4,800 megawatts of wind, solar, gas, geothermal, and hydro resources in operation and has invested more than \$10 billion in renewable energy throughout the United States. In 2016, BHE Renewables completed a 400 megawatt windfarm in Holt County, Nebraska. This is the largest single wind project in the state's history and it constituted an approximately \$700 million estimate, investment in Nebraska, one of the largest investments in the state's history of any kind. The project created approximately 350 temporary construction jobs and 20 on-site permanent jobs. It is now generating over \$4 million per year in landowner lease payments and approximately \$2

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million in new property tax revenue annually to Holt County. Over two-thirds of this new revenue goes to Holt County schools. This leads me to LB373. The three-mile proposed setback for many nonparticipating residents would effectively act as a moratorium on any future wind generating facilities in Nebraska. While not built in the most remote part of the state, Grande Prairie was built in a very rural setting in northeast Nebraska. While Holt County currently uses a very generous one-half mile setback to neighboring dwelling units, you have a map that I've passed around that overlays the three-mile, three-mile setback on this project. As you can see, such setback would allow only 5 of the 200 turbines to have been built and thus would not have allowed this project or the associated economic development or property tax relief that occurred in Holt County. In Iowa, none of MidAmerica Energy company, MidAmerica Energy company's windfarms were constructed in areas with required setbacks in excess of 1,500 feet. BHE Wind remains very interested in making major additional investments in Nebraska and continuing to help with the rural economic development of the state. But passing LB373 would effectively stop all future wind development in the state. Thank you for the opportunity to provide this testimony. That's the end of Mr. Butler's testimony. I also want to register the opposition to this bill from the Northeast Nebraska Public Power District, for whom I also act as registered lobbyist. And with that, I would take any questions.

La GRONE: Well, thank you for your testimony. Are there any questions? Senator Blood.

BLOOD: And maybe you can answer this and I'm not sure, so thank you--

DAVID LEVY: I'll try.

BLOOD: -- Vice Chair La Grone. So I had a couple of e-mails that did imply that some of the public power companies were putting things underground in neighboring properties without permission. Is that something that can actually happen?

DAVID LEVY: No. I mean that would be trespassing, too. Those are private properties. A public entity, just like a private entity, would need some kind of a property right to put something in or on somebody's property.

BLOOD: So we've had several people say that. Why do you think that that might be? Do you think it might be that they bought the land from

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somebody else who had only given permission or, I mean, not to make you guess. I just thought you might know.

DAVID LEVY: That could be and any type of, of legal instrument, like an easement, typically there would be, it would be recorded or there'd be a recorded memorandum of that. So if you bought that property from somebody and did any kind of a title search or bought title insurance you would, you would learn of that. So I suppose it's possible that it could be there with the prior owner and it wouldn't somehow be known to the buyer, but it seems highly unlikely to me.

BLOOD: OK. Thank you.

DAVID LEVY: Sure. Thank you.

La GRONE: Any further questions? Senator Hunt.

HUNT: Thank you, Vice Chair La Grone. Hello, David. How's it going?

DAVID LEVY: Good. Thank you, Senator.

HUNT: That's my question.

DAVID LEVY: My favorite one ever.

HUNT: So I think that we've heard a lot about this bill and the intention to create some zoning regulations in every county, because I have this map here that someone brought up here to show that most counties are zoned for wind, but not all of them. And I was wondering if you've had any experience working on wind projects in counties without zoning.

DAVID LEVY: Yes. I've worked on wind projects in numerous, tens of counties across the state, including both those with zoning and those without zoning. And Mr. Clement noted that in Wayne County, for example--and I was legal counsel to that project--we met numerous times with the county board in open session in advertised meetings where people could come and have conversations and people did come and have conversations. The media was there. These were reported in the newspapers. We negotiated a roads agreement and executed that with the county. We negotiated a decommissioning agreement and executed that with the county. And also companies, themselves, imposed setbacks on themselves. A wind developer is going to be a member of that community for a long time. They're making a nine-figure investment in that, in that community. And the last thing you want to do is go and do

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something that harms that community where you're making that big investment. So BHE, for example, imposes upon themselves a 1,500 foot setback from a residence whether the county has zoning or not. I know NextEra has a similar standard that they impose upon themselves and other companies do as well. So even in a nonzoned county there is a lot of process and a lot of protection for landowners and for the county.

HUNT: Have you, have you ever, out of my curiosity, have you ever had a project in a nonzoned county for wind that then adopted regulations later? Was there any--

DAVID LEVY: No, I haven't. And I'm not aware, recently anyway, of any counties adopting zoning. I did work on a project a few years ago in Butler County and there was, there was concern and opposition to that project.

HUNT: Butler is unzoned.

DAVID LEVY: Butler is unzoned. And there was a desire and a request and an urging from some of the opponents that the county adopt zoning. And the county board was not interested in adopting zoning. As I believe it was Elaine Menzel from NACO said or somebody said, it's voluntary for these counties whether they want to adopt zoning or not. This bill wouldn't change that at all. In all of the Legislature's history and all of its wisdom it's never decided to require counties to adopt zoning. This bill would do that, but only for one industry.

HUNT: OK. Thank you very much. I also want to point out for the record that Mr. Levy's from the great District 8 in Nebraska.

DAVID LEVY: That's right.

HUNT: Thank you.

DAVID LEVY: Thank you.

La GRONE: Well, thank you for your testimony. I don't, are there any further questions? Thanks for coming by.

DAVID LEVY: Thank you all very much.

La GRONE: Next opponents.

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MIKE DEGAN: Good afternoon, Mr. Vice Chair, members of the committee. My name is Mike Degan, M-i-k-e D-e-g-a-n, and I have the pleasure of being here before you today on behalf of Invenergy. Invenergy is the largest privately owned renewable energy developer in the United States and it has been actively involved in developing and building projects back here in Nebraska since 2010. Its first project was completed in three phases in 2016, known as the Prairie Breeze facility. It's a 300 megawatt facility located in three counties, primarily situated in Antelope County. In addition to that, Invenergy currently has its upstream project under construction and has another one behind that which we hope to go into construction later this year. So Nebraska has been good for Invenergy, but Invenergy has been good for Nebraska. Invenergy has poured millions of dollars in economic development dollars, including monies related to construction, both permanent and temporary jobs, salaries, tax revenues, landowner lease payments. Senator Hunt, you had a question on, on Antelope County. On Prairie Breeze alone in 2017 my client, Invenergy, paid a total of \$3.7 million dollars, and that's inclusive of taxes, salaries, landowner payments, so that's an all-in number. But these projects are clearly a significant amount of economic development for rural counties in Nebraska. And by and large, certainly in our experience, it has been a effective two-way partnership, both from our perspective and from the counties and the residents that we work with. So we're opposing this bill today for several reasons. And first off I want to make eminently clear that this bill, if it passes it will halt development, period. There's just no question about that. Three miles is beyond the largest setback that we've seen anywhere else and that would stop all development. And it would also stop development in those counties that have already adopted zoning regulations. So there's ten counties here that don't have zoning regulations so we got to stop all development until we allow those counties an opportunity to catch up. But more importantly, it's unnecessary. We already have a local process, including to these opponents. They can go to their local counties and ask for zoning regulations to be passed. There is already participation and we engage in it regularly. In addition to that, when we go in to build a project we negotiate a conditional use permit which again is a two-way process in which we try and make those accommodations to make us good neighbors, because we want to in the end have a good relationship with, with those in the county. Lastly, this would vitiate local control. This would be the state of Nebraska essentially invading this very important function of local governments. And these projects are not one-size-fits-all. One set of regulations in one county may not make sense in the next county. And

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the local elected officials are best situated in order to balance those considerations. So I thank you for your time and will take any questions.

La GRONE: Thank you for your testimony. Are there any questions? Seeing none, I have to step out for a moment, so I'm going to hand the committee over to Senator Hansen.

M. HANSEN: Thank you. All right. We'll take our next testifier on LB373. Go ahead.

TIM FICKENSCHER: Good afternoon or good evening or, my name is Tim Fickenscher, and that's T-i-m F-i-c-k-e-n-s-c-h-e-r, and I think I should get extra time for the length of my name, but. The, I love coming to these because I learn so much. Anyway, so it's been an interesting afternoon learning. I'm born and raised in Nebraska. I grew up in Brady, Nebraska. The Sandhills were my playground. I went to high school in Gothenburg, Nebraska, and now live in Omaha a few blocks east of Senator Hunt's district. And I'm not going to go through what a, what I wrote here. It seems, first of all, I admire the decisions you have to make because you've heard a whole series of pro and con. And I'm a retired teacher and frequently kids would have arguments and one kid would argue this and another kid would argue this and it seems like this bill has two different components. The structure of what's going on in counties and zoning raw, laws and wind energy. And I oppose this bill because I don't think that we can stand in the way of wind energy. However, I do appreciate the proponents of this bill and saying that there are structures that need to be put in place. And how you all make that decision is totally beyond me. And good luck, so.

M. HANSEN: All right. Thank you, Mr. Fichenscher. Are there questions from the committee? Seeing none, thank you for your testimony. Welcome.

MATT GREGORY: Good afternoon. Members of the Government Committee, my name is Matt Gregory, M-a-t-t G-r-e-g-o-r-y. I'm here today representing Nebraska Interfaith Power and Light. The director, Ken Winston, was going to be here. He couldn't make it. I'm here in his place. Nebraska Interfaith Power and Light's a statewide interfaith, nonpartisan, nondenominational organization providing a moral message on issues related to renewable energy, climate change, and care of creation. We're going to deviate here from the prepared text to get at some of the things that were, that were mentioned today. But just to

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give an overall view, we're today in opposition of the bill as we see that this would kill or severely diminish future wind development in Nebraska. It already, you know, Nebraska already has some of the strictest noise regulations in some of the counties of the whole country and a three-mile setback, even on a temporary basis, would be an unreasonable first. And as other people mentioned, this bill is cast as so-called local control, but it's not local control if the state is setting the mandatory parameters of subjects to address. And as it stands now, if a county doesn't want a wind project they don't have to have one. UNL's 2015 Rural Poll found that 80 percent agree that more needs to be done to develop wind and solar. Last year the Natural Resources Defense Council released a report on clean energy in rural Nebraska, in rural America and Nebraska was one of the states it studied. It found that there's more clean energy jobs in the rural areas, but there's a bigger percentage of those in the rural economy and that's 1,443 well-paid jobs with benefits in renewable energy in rural Nebraska. And wind for the, for the state provides \$9.4 million annually in local revenue taxes, in local, and local tax revenues, which is something to keep in mind as you grapple with property taxes this session. And I believe that Senator Hunt asked about total investment in Nebraska or something along those lines. As of 2017, \$2.6 billion in total capital investment has been invested in Nebraska. So just a couple of quick last things. The, the Lawrence Berkeley National Lab did three studies in 2009, 2013, and 2014 and found no statistical evidence that operating wind turbines have had any measurable impact on home sales. They've also conducted a study on attitudes of wind power on project neighbors looking at strong correlates to annoyance of wind. And the strongest correlates were what your opinion is of renewable energy and climate change and if you thought that the planning process was fair. So, so even in this divided time of our nation, renewable energy, specifically wind, is something that both political parties agree and support: 79 percent of Republicans, 91 percent of Democrats on a, throughout the country support wind energy. So I'm out of time.

M. HANSEN: All right.

MATT GREGORY: Happy to answer any questions.

M. HANSEN: Yes. Are there questions? Seeing none, thanks for your testimony. Thank you. All right, we'll take our next testifier.

CHELSEA JOHNSON: Hi.

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M. HANSEN: Hi. Go ahead.

CHELSEA JOHNSON: My name's Chelsea Johnson, C-h-e-l-s-e-a J-o-h-n-s-o-n, and I'm here for the Nebraska League of Conservation Voters today. LB373 would impose some of the most severe state restrictions on clean energy in the US. NLCV opposes this bill because it would stall wind energy in our state and have little substantial relation to public health, safety, or the general welfare. LB373 requires that all wind turbine, turbines receive approval from all residential dwellings within a three-mile radius. In regards to ordinances dealing with wind energy, such as setbacks, noise limits, or shadow flicker, researchers at Michigan State University raised concerns about regulations that depend on a neighboring landowner's approval because it could run afoul of the Equal Protection Clause of the federal constitution. They raise the point that the result would be arbitrary and capricious because a neighbor may say, yes, to one because they're good friends and, no, to another because they don't get along. That's not a decision based on standards or treating people equally. But if LB373 is passed, that would be our standard for two years. Not only is the three-mile or 15,840 feet dwelling setback arbitrary, it is extreme. To put it in perspective, in 2014 the state of Ohio put in place a property line setback of 1,125 feet, which is currently one of the largest setbacks in the country. And since that time, for four years Ohio didn't see a single new wind project. And in November of 2018 farmers sued the state over the regulation. If LB373 is passed, our regulations on wind energy would be even more severe. LB373 requires that counties implement certain zoning restrictions by July 2021 or they cannot have wind projects. This is also counter to the example set by most other states in the country. For starters, most states don't have a specific outline that local municipalities or counties must follow. Additionally, the requirements themselves in LB373 do not seem to be based on best practices used across the country. For example, LB373 mandates that counties must have fixed, fixed distance setbacks that are not based on the height of the turbine. Most states and counties across the country do base their setback requirements on the height. For example, many counties in Nebraska set a 1.1 or 1.5 times the height of the turbines setback from the property line. As has been said before, many counties already have implemented standards and LB373 would make them redo the ordinances. The design of this bill matters to an NLCV because it is clear that the bill is not about implementing tested standards. The bill is about stalling wind energy in Nebraska, because it is unduly restrictive and arbitrary and specifically targets wind energy, an

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industry that is beneficial to Nebraskans. We should be working to increase investment in clean energy rather than put up barriers that would stall its development. I see I am turning red, so I will just finish by saying that in the three and a half days that we had to gather opposition to this bill, we've gathered more than 750 signers from across the state in opposition to this. So I can give this to the clerk. I did not bring copies because I wanted to save paper so I will e-mail them to you.

M. HANSEN: Thank you, Ms. Johnson. Are there questions from the committee? Seeing none, Ms. Johnson, I believe there's, I was told you needed a testifier's form. So if you'll make sure you have your documents with the clerk. Perfect. Thank you. Hi. Welcome.

DONNA ROLLER: Hi. Good afternoon. This is, I'm Donna Roller, D-o-n-n-a--I still have a red light--R-o-l-l-e-r, and my testimony is going to be easy because the last two testimonies were perfect and they express my views perfectly, but I do have kind of a bleeding heart here. I almost want to cry because everything that Tom Brewer, Senator Brewer said and everything that these landowners have expressed has been a ten-year battle of all of us KXL fighters. And yet we have gotten nowhere with this Legislature. Nobody has stood by us and we were protecting the water, the most important resource of this state. And so here we are today talking about wind energy. You know, my God, I just, I just almost want to cry for the lack of representative support. We are not treating all citizens equal here and my farm was threatened by all of the same complaints. So I've written kind of a last sentence here. And, you know, frankly, I do believe that this bill, how convenient that people in Nebraska don't want wind, because how convenient for oil companies and fracking companies, too, who are already putting their money into lobbying the state. How convenient for them. This is a bill passed from other, some other lobbyist and I know who he is or a person. They want to get this and all the state. It's a year-long effort to kill sustainable energy or alternative energy. It is a year-long goal. So the motives of the bill and the intent of this bill, while they look good on the surface, I think there's more to it. I see this bill as a singular, singular issue, but a complex issue regarding all quality of life for all Nebraska people. We should be looking at this as a whole climate mitigation problem. How are we going to adjust to changing climate? What energy are we going to use in combination in this state? How are we going to protect everyone's property rights against eminent domain, especially its private companies? How are we going to preserve our

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water? What products are we going to grow in the clumy-- in the coming climate and land conditions? And how are we effectively dealing with corporate farming? And that was mentioned here today and if there's one thing more threat to this state right now it's CAFO Operations. We can't even drive in the country without the putrid smell. And I grew up on a farm and I know what it should be. Iowa's turned into America's toilet. They have a dead zone in the Gulf and they're coming to Nebraska. They're coming for water. They're coming for our GMO corn. And we could not even stop a chicken barn here in Lancaster County. You know why? They talk about regulations. We don't have state regulations for that either. So please, say thank you for every glass of water you got and start acting on this climate change issue for the state of Nebraska as a whole, because you're going to have to hug your grandchildren and your children harder tonight for that reason.

M. HANSEN: Thank you, Ms. Roller.

DONNA ROLLER: Thank you very much. I don't think you have any questions for me. I just, I just want fairness here.

M. HANSEN: All right. And there doesn't seem to be any test, questions, so thank you. All right. We'll take our next testifier.

RICHARD LOMBARDI: Good afternoon, members of the committee. My name is Richard Lombardi, R-i-c-h-a-r-d L-o-m-b-a-r-d-i, I'm appearing on behalf of an organization known as The Advanced Power Alliance, formerly known as The Wind Coalition. We represent companies that are operating from Texas up through Nebraska. They work in the areas of wind technology, solar technology, and battery storage. Some of our members have already spoken to you today. I know it feels like you're being fed by a firehose. But I did want to, one the, one of my favorite pieces of information here speaks directly to the power of this particular piece of legislation and actually the power of the Legislature, because if it has not been for the Nebraska Legislature we would have no wind development in this state. And what I've just passed around to you is, is a, is a time line that is based on various pieces of legislation that the Nebraska Legislature has passed and the result of the investments that have accrued because of those, of those, the passage of that legislation. The companies that we work with are pretty unanimous that the particular piece of proposal that's before you today would, would level out those lines. And they are the ones that are doing the investments, they are building, they are operating that. But make no mistake about it, state legislation either makes it happen or doesn't make it happen. And the Nebraska

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Legislature has really led the way historically to be hitting the types of marks that we're seeing in rural economic development, in jobs, in the growth of tax and land lease, land lease revenue in the state. And it's been truly a success story that appears to be really ramping up and you will, you will also see, I would not be surprised to see that the amount of solar that you're going to see in this state at utility scale is, is, is, is going to be equaling wind in not too distant future. It's a very exciting time. I think it's important to realize the incredible power and potential that you have in legislation because you have created this industry and the renewable energy industry in the state. Make no mistake about it. And to pass this piece of legislation would be taking a step back from that, so. Thank you for your time.

M. HANSEN: Thank you. Are there questions? Senator Blood.

BLOOD: Thank you, Vice Vice Chair, wherever we're at now. So because you do work with so many companies, I kind of have a question I'm hoping that you can help me answer this. We heard a lot of people refer to the monies involved. You know kind of the old adage, the rich get richer and the poor get poorer. And there is, they were implying that when the incentives go away we also won't see any more wind development. What do you think about that?

RICHARD LOMBARDI: I think that--

BLOOD: You speak for multiple people.

RICHARD LOMBARDI: Yeah. I think the, the, the actual incentives in the industry have worked so well that since we began working about a decade ago the cost of--and I think this might be included in David Bracht's Op-Ed piece--the cost of wind development, the turbine costs has been reduced--

BLOOD: Substantially.

RICHARD LOMBARDI: Substantially, as, as we've seen also deep reductions in costs of solar. The major item that, that, that needs to be understood is that these are fixed cost resources. That's why Facebook is here. That's why, that's why OPPD and LES and NPPD have invested. This, this is, this is where this fixed cost resource is, there's not many things we can do in life to say, I know what this is going to cost me now, what's this going to cost me in 20 years from now? That's the beauty of power purchase agreements with renewable

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energy. We don't pollute. We don't use fuel. It's a winner and now, and now with wind and solar and tying in battery storage, game over. This is, this is the future. And we are really well positioned and this is just a great opportunity for the state. But those, so we're actually, wind is the only one that doesn't have any tax supports. We're the closest to a free market system in the state. Nuclear isn't, coal isn't, gas isn't, but wind is. And it has succeeded in that the cost per turbine has gone down dramatically. The efficiencies have gone up unbelievably. It's a huge success story and we're being the beneficiaries in the state. I'm taking away anything from the skirmishes, but the fact of the matter is, is that we're on a roll. And I think you want to keep this roll, so.

BLOOD: Thank you.

La GRONE: Are there any further questions? Seeing none, thank you for your testimony.

RICHARD LOMBARDI: Thank you.

La GRONE: Next opponents. Welcome to the Government Committee.

PAUL PLOOF: Thank you. My name is Paul Ploof, I'm with-- in Legislative District 23, P-a-u-l P--

La GRONE: No, you're good. I was going to ask you to spell your name and then you started doing it.

PAUL PLOOF: That's OK. P-l-o-o-f. I thank the committee for their time today. I ask the committee to consider three areas of thoughts when making their decision on this bill. First, we have responsibilities to the citizens of Nebraska. Some people are concerned about the citizens of northeast Omaha, who live near a coal-fired electric plant and are exposed to greater health risks than others in Omaha. Some are concerned about landowners around Seward who are contending with a foreign-owned oil pipeline that threatens their land. We have responsibilities to the citizens of the United States. There is concern about the growing need for electricity in our country. The economy of electrical generation is changing in this country and in the world. Germany recently announced that they will be closing all of their coal-fired plants by 2038. We have responsibilities to the citizens of the earth. The responsibilities to reduce the amount of carbon dioxide produced have been outlined in the 2018 International IPC Report, the 2018 National Climate Assessment, and the 2014

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University of Nebraska at Lincoln School of Natural Resources Report. I'm very interested in Section 7 of this report, as it addresses the effects that we can expect. Secondly, we should consider the economic benefits of wind power natural resource, which in Nebraska is the third best state in the country for pride, providing. going to skip to the very last part. As, I asked the committee to be mindful of many changes we are seeing in our towns and state and country. When we look at agriculture we see family farms and ranches changing into corporate farms, ranches, and chicken plants. We see our population changing from rural to urban and increased use of H-1B visas to provide additional work force. We see grocery stores changing from locally owned to national corporations like Wal-Mart and on-line stores such as Amazon. These changes can be disturbing. Climate change is coming in the next 11 years will be extremely disturbing.

La GRONE: Thank you.

PAUL PLOOF: I'd like you to finish to look at the rest of it.

La GRONE: Well, thank you so much for your testimony. Are there any questions? Seeing none, thank you so much for coming down.

PAUL PLOOF: You're very welcome.

La GRONE: Next opponents. Welcome to the Government Committee.

LUCAS NELSEN: Thank you, both Senators and Vice Chairman. My name is Lucas Nelsen, L-u-c-a-s N-e-l-s-e-n, and I'm a policy associate with the Center for Rural Affairs. I have a written comment that I invite you to read, but I really don't want to retread what a lot of testifiers have already said. I would like to just note that the reason that the center opposes LB373 is or LB373 is that we believe in bringing economic opportunity to rural communities and in local control. And I, I've firsthand seen the benefits of wind energy to several rural communities in Nebraska and also just the broader effect on building a clean energy economy in the state, and I think that's something that we haven't really touched on here. I, I've been to Petersburg, Nebraska, a town of 300. You, you see ten new jobs come to that community just from a windfarm, just from long-term operations jobs, not counting construction jobs, not counting new businesses that have opened up because of economic activity in the community. And they've also enjoyed the benefits of hosting turbines as landowners. New tax revenues help the school not just in that district, in that county. And, additionally, the, the payments to landowners have helped

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at least one landowner open a new grocery store in town. It's quite a grocery store for a town of 300. If you've ever been to a town of 300, grocery stores can, can be pretty sparse, hard to come by. And I've also, I'm a native of Norfolk, Nebraska, and I think if you visit Northeast Community College in Norfolk, Nebraska, you would have the opportunity to meet with the wind energy technician training program and at that program you'll be able to meet students from small towns in rural Nebraska. Students that want to return to small towns, but they also want good paying jobs and the ability to be able to stay in those towns without having, you know, numerous jobs just to make ends meet. They're looking for a career as a wind energy technician to provide that outlet for them to return to a rural community, start a family, remain in rural Nebraska. And that's something that we, it's hard to put a number on but that's just that, that, that's a piece that we cannot overlook. Specifically, on LB373 the three-mile setback would be one of the strictest in the state and in the nation. That setback would limit wind development in the best of cases or eliminated in the worst cases. That would have an effect on all that economic opportunity, would limit the benefits from wind energy, and as some have noted it would undo a lot of the work that some counties have already done. The center doesn't believe that this one-size-fits-all template approach is best for Nebraska communities that already have the ability to set regulations. And we believe that crafting well-balanced standards is what we should be aiming for in the state of Nebraska. And that's only done through working through local county boards, working with local landowners, local community members through hearings to take in all the input to form those regulations and come up with the best standards that work for those local areas. And I'll take any questions that anybody might have.

La GRONE: Thank you for your testimony. Are there any questions? Seeing none, thank you so much for coming down. The next opponent.

SANDRA BLACK: I tried for the last, 'cause then I don't have to repeat a lot of stuff.

La GRONE: Welcome to the Government Committee.

SANDRA BLACK: Thank you for having me. My name is Sandra Black, S-a-n-d-r-a, Black, B-l-a-c-k. I was born and raised in Nebraska. I have lived in Nebraska most of my, my life except for a time where I needed to move out state to make enough money to take care of myself and my family. Wind energy, green energy provides jobs, the potential for jobs, good-paying jobs that we need in our rural areas. This bill

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will stop that development. This, despite what Senator Brewer said, it will definitely put a stop to it. The other reason I believe this bill is not necessary is from the testimonies I've heard today, is that we've already given our local governments, they have the ability to create zoning commissions. They have planning commissions. They have either taken advantage of that or they have not, but they've already got it. So we don't need another bill that's going to impede the development of solar energy to give them something they already have. Some of the testimony I heard talked more to maybe the officials in their areas being susceptible to being influenced by money. That's unfortunate. I don't know that this law is going to change that. So anyway, I hope that you will vote against this and keep on pushing for renewable energy. Thank you.

La GRONE: Thank you for your testimony. We do have a question, actually. Senator Blood has a question for you.

SANDRA BLACK: OK.

BLOOD: Thank you, Vice Chair La Grone. So where do you live now?

SANDRA BLACK: I live on a small acreage near Hickman, Nebraska.

BLOOD: Near Hickman? And where did you live before you moved?

SANDRA BLACK: I grew up, I was born in Norfolk. We lived in Newman Grove. I lived in Wilber. I lived in Columbus. I lived in Aurora. I lived in Kearney. I lived in, I graduated high school in Oxford. I lived in Holdrege. Did I say Aurora?

BLOOD: That's good enough. I'm trying to get--

SANDRA BLACK: I grew up in Nebraska.

BLOOD: And so I also am a Nebraska girl, born and raised and I've never left the state except for vacations which are few and far between. Can you tell me, please, what you did for a living that made you move out of Nebraska?

SANDRA BLACK: When I left Nebraska I was working as a chemist. I have, I'm a degreed person. I have a master's degree. I was working as a chemist. I received an offering that doubled my salary in an area where cost of living was only slightly higher and I evolved into project manager in both agriculture and clinical research.

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BLOOD: And what, and what brought you back?

SANDRA BLACK: My company allowed me to work remotely and so I was able to move back to be closer to family.

BLOOD: Well, we're glad you're here spending your tax dollars in Nebraska.

SANDRA BLACK: Yes, and they were paying me.

BLOOD: Keep up the good work.

La GRONE: Thank you so much for your testimony.

SANDRA BLACK: You're welcome.

La GRONE: Next opponent. Seeing none, we'll move to neutral testimony. Seeing none, Senator Brewer, you're welcome to close.

BREWER: All right. I'm not sure where to begin on this after the testimony this afternoon. Somehow no matter what you say in the opening it doesn't register with folks. If they come with the idea that things are going to happen a certain way and the things are certain truths, it doesn't matter what the bill says, they're out to make a point. So on, in the case of some of them I'm not even going to respond, because I just don't think that's going to serve any purpose right now. I will tell you that there is a burning disgust in me with many of the big wind folks that spoke here today. And they are this conglomeration of overpaid lawyers. They get paid to come in and do what they just did. Unfortunately, the people out there that are working for a living can't come down here and share their experiences. To say that there is no effect on property value when you build a tower next to someone else and they have to look at it, see it, and listen to it, is ridiculous. Now one of the things I will do is take the testimony from today and we're going to go back and we're going to look at some of the things that were said by them. And we're going to take a real close look at what was said, because if we're going to testify in here we ought to have at least a little truth to and I believe there was some incredible lies told today. On the issue of the pipeline, it's not in my district. If it bisected my district I would address it. It does not, so it's not my issue. And we can't stick all the energy stuff into some giant package and then try and think that there's any way you'd ever get it through a committee here. This is a slice, a piece that my constituents brought to me because it's an

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issue. Why is it an issue in my district? Because they're getting ready to scatter them all throughout the Sandhills. And with each tower comes lots of concrete and tearing apart those Sandhills to put in roads and putting up towers that will be eyesores forever in the beautiful Sandhills that those of us who live there come to love are no longer going to be a tourist location for folks. It's going to be an eyesore just like it is everywhere else they building them. They want to bring up Holt County, they want to bring up Antelope County. Well, that's fine and dandy, but go up there and talk to the people that are there because there is half of them happy, they're getting a check, and the other half of them have to look at it aren't so happy. I've seen it tear families apart, because my wife's family comes from there and it's about to tear the Sandhills apart. I'm seeing that. So if I seem passionate it's because I am. And for all the, the crazy idea there is, there is no other reason I'm here than to, to, to follow through with the contention, the issues that my constituents have brought up. Now, Mr. Hansen, high and as mighty as he is, failed to mention the fact that we have over 400 megawatts of surplus energy here in Nebraska. So what we're going to do is continue to build towers, continue to spend money we don't have to build them and tear up Nebraska so we can produce more energy when we're selling the energy we have now. And we're going to build more power lines. There's a lot of things associated with it no one wants talk about. And everybody wants to tout these beautiful wind towers. Nobody wants to talk about the raft of birds they kill and all the other issues. So we're not going to go into that because we don't have enough time to talk some of the realities of wind energy. But, again, I never intended to stop wind energy. The idea here was that we address certain things. And it comes down to the simple question of setbacks, which is only fair to the other landowners, noise, and the decommissioning. Now I'm going to, and one of things that we'll bring out this testimony is I'm going to be real excited to go to the Power Review Board and get all that documentation that talks about those issues, because I'll bet you that I'm going to hit a stone wall. And when we want to know how much landowners get to put a tower there, they're not going to tell is. And when we want to find out how we're going to decommission, or what happens one of these catch on fire and starts to prairie fire and burns thousands of acres and kills hundreds of cattle? Somebody has to pay for that. Well, that whole thing better be open, because if it isn't then we do have some issues that we need to talk that go much farther. And maybe this issue of wind energy isn't such a glorious thing like they want to make it. So with that said, the intent with this was simply to give the counties the

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authority they need so that they can have oversight on wind energy and have zoning boards. With that said, I'll take questions.

La GRONE: And thank you for your closing. Are there any questions? Seeing none, that will almost close our hearing on LB373. I do have numerous letters to read into the record. Letters from popup, proponents include: Jack Beck from District 2; Marilyn Ericksen from Seneca, Nebraska; and Glenda Phipps from Whitman, Nebraska; Paul Statz from Nuckolls County; Rod and Ann Warren from Thedford; Judith Rath from Thedford; Joy Miles from Thedford; Chase Rath from Thedford; Merrial Rhoades from Thedford; Jan Schweer from Omaha; Michael Wallace and Mary Wallace from Nelson; Carolyn and LeRoy Semin from Kilgore; Sheila Walker from Alliance; Barbara Welch from Thedford; Daniel Welch from Thedford; Joe McGinley from Lisco; Tom and Twyla Witt from Thedford; Mickey and Melanie Coffman from Halsey; Amy Ballagh from Burwell; Tyler Rath from Thedford; Twyla Witt from Thedford. And then letters in opposition: Advanced Power Alliance; from Lincoln, Sherry Miller the president of the League of Women Voters; UNK students from Kearney; Josh Moenning, director of New Power Nebraska; James Woody from Lincoln; Gina Frank from LD29 in Lincoln; Alex Houchin from Lincoln; Mo Neal from Lincoln; Pat Newman from Lincoln; Kathy Jeffers from Omaha; Sheri St. Clair from Lincoln; Gloria and Terry Rial from Omaha; Liz Doerr from Knox County; Angelic Philips from Omaha; Deborah Levitov from Lincoln; Timothy Burke, president CEO of OPPD; Carol Windrum from Omaha; Christina Bradley from Omaha; Brooklynne Rosado from La Vista; Julia Schleck from Lincoln; Alex Liekhus from Omaha;. Scott Williams from Omaha; The Sierra Club, Nebraska Chapter of Omaha; Laurie Gift from Omaha. And that concludes the letters and the hearing on LB373 and our hearings for the day. Thank you all for coming out.