

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 24, 2020

**LINEHAN:** Welcome to the Revenue Committee public hearing. My name is Lou Ann Linehan, I'm from Elkhorn, Nebraska, and represent Legislative District 39. I served as Chair of this committee. The committee will take up bills in the order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before you-- us today. If you are unable to attend the public hearing and would like your position stated in the record, you must submit your written testimony by 5:00 p.m. the day prior to the hearing. To better facilitate today's proceeding, I ask that you abide by the following procedures. Please turn off your cell phones and other electronic devices. Move to the chairs at the front of the room when you are ready to testify. So this was brought to our attention. So if you're gonna testify, it would be best if you were sitting here in the front row because then it helps everybody know where the queue is, because it burns up a lot of time when people are sitting in the back and they have to move forward. The order of testimony is introducer, proponents, opponents, neutral, and closing remarks. If you will be testifying, please complete the green form and hand it to the committee clerk when you come up to testify. If you have written materials that you would like to distribute to the committee, please hand them to the page to distribute. We will need 11 copies for all the committee members and staff. If you need additional copies, please ask the page to make copies for you right now, right after I get done introducing them, because they can have them back here then. When you begin to testify, please state and spell your name for the record, both your first and last name. Please be concise. It is my request-- how many people are planning on testifying today? OK. It's my request that you limit your testimony to five minutes, so we'll use the light system. So you'll have four minutes on green, then the one minute on yellow, and then when it's red, you need to wrap up. If your remarks were reflected in the previous testimony or if you would like your position to be known, but do not wish to testify, please sign the white forms at the back of the room and it will be included in the official record. Please speak directly into the microphone so our transcribers are able to hear your testimony clearly. I would like to introduce the committee staff. To my right is legal counsel, Mary Jane Egr Edson. And to my left is research analysis-- analyst, Kay Bergquist. At the end of the table to the left is committee clerk Grant Latimer. And now I would like to ask the committee members to introduce themselves, starting with Senator Lindstrom.

**LINDSTROM:** Hi. Senator Brett Lindstrom, District 18, northwest Omaha.

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**FRIESEN:** Curt Friesen, District 34, Hamilton, Merrick, Nance, part of Hall County.

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

**CRAWFORD:** Good afternoon, Senator Sue Crawford, District 45, which is eastern Sarpy County, Bellevue, and Offutt.

**BRIESE:** Tom Briese, District 41.

**LINEHAN:** Our pages today are-- could you stand up, please? Thank you-- are Noa and Claudia. Noa is a student at Doane University and Claudia is a student at UNL. Thank you for being here. Please remember that senators may come and go during our hearing as they have other bills to introduce in other committees. I think Senator McCollister told me earlier he's going to have to leave for a little bit. Refrain from applause or other indications of support or opposition. I'd also like to remind our committee members to speak directly into the microphones. Also, for our audience, the microphones in the room are not for amplification, but for recording purposes only. Lastly, we are an electronics-equipped committee and information is provided electronically, as well as in paper form. Therefore, you may see committee members referencing information on their electronic devices. Be assured that your presence here today and your testimony are important to us and is critical to our state government. So thank you for being here today. We will start with LB841 by Senator Crawford. Good afternoon, Senator Crawford.

**CRAWFORD:** Good afternoon, Chairwoman Linehan, and members of the Revenue Committee. My name-- for the record, my name is Sue Crawford, S-u-e C-r-a-w-f-o-r-d, and I represent the 45th Legislative District of Bellevue, Offutt, and eastern Sarpy County. I'm here to present LB841, a bill about reducing unnecessary burdens on disabled veterans and other permanently disabled individuals seeking property tax relief through our homestead exemption. Under the homestead exemption, certain categories of Nebraskans are eligible for partial or total property tax relief. Those categories include disabled veterans and their spouses, widows of veterans who died in the line of duty, and individuals with a permanent physical disability or developmental disability. One of my constituents is eligible for a total property tax relief under the permanently disabled veteran with a service-connected disability category. She reached out to me, asked my help in alleviating a current requirement imposed by the Department of Revenue, which is overly burdensome for disabled veterans filing for a property tax exemption through the homestead exemption. The statute required-- requires with an initial application a certification of

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disability stat-- status from the federal VA, a physician, or the Department of Health and Human Services, whichever applies. After that, the statute states that additional certification shall not be required if no change in status has occurred. However, the statute does allow the county assessor or tax commissioner can request additional certification to verify that no change in status has occurred. The Department of Revenue has made use of that provision and is currently requiring those eligible individuals to file an annual form with the county assessor recertifying their disability status. This practice seems to go against the intent of LB776, which we passed in 2016, to remove the requirement that an applicant has to provide certification each year. If the qualifying disabled individual or their spouse does not file the annual form before the June deadline, they owe the full amount of the property tax. As my constituent pointed out, the disabled individual applicant missing the filing date may be related to his or her disability, which could be cognitive. By definition, a permanent disability means it is ongoing. We should not be requiring eligible disabled veterans and individuals to jump through this unnecessary hoop year after year to receive the property tax relief they're entitled to under Nebraska statute. What LB841 accomplishes is to eliminate the provision that is allowing the current practice of requiring additional verification of permanent disability annually. Requirements above and beyond this are unnecessary, given that by definition these individuals are permanently disabled and are already required to have submitted certification for the VA, a physician, or DHHS. And as I noted earlier, again, I think our intent in LB776, when we passed it in 2016, was to allow somebody to certify once and not have to be recertifying annually. This is not a group of people who we should be trying to retain extra tax revenue from by hoping they will miss a deadline. Please advance LB841 to ensure-- ensure that disabled veterans and their spouses, veterans' widows, and personally disabled individuals can receive the property tax break they're qualified to receive under our homestead exemption law. Thank you.

**LINEHAN:** Thank you very much, Senator Crawford. Do we have any questions from the committee? Seeing none, thank you very much.

**CRAWFORD:** Thank you.

**LINEHAN:** Good afternoon.

**GREG HOLLOWAY:** Good afternoon, committee. My name is Greg Holloway, G-r-e-g H-o-l-l-o-w-a-y, and on this bill I'll be representing the Disabled American Veterans. I'm the Department of Nebraska legislative regis-- representative. And as a matter of fact, I am also a permanent

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and total disabled veteran, 100 percent rated from Vietnam. And when you meet the criteria of permanent and total, there's no scheduled appointment. So pretty much they're not going to take your disability rating away from you unless something miraculously happens. So a lot of the counties already do this anyway. They don't-- I don't think Senator Kolterman's county actually makes me do one every year to start with. So the Disabled American Veterans Department of Nebraska is OK with this bill and think you should just consider it. I don't think there's any fiscal note to it whatsoever, so it's kind of a gimme. Senator Kolterman assisted us in a bill similar to this to help change the medical requirements for non-service-connected veterans last year. And that was similar to this in effect because they were having to pay for a physical every year, and they could use the homestead exemption letter. So I think this would probably cover them also so they don't have to do it every year with the homestead exemption letter. I'd like to see that as part of it too, for the non-service-connected veterans also, so. But we're OK with it. All right?

**LINEHAN:** Thank you very much.

**GREG HOLLOWAY:** Thank you very much.

**LINEHAN:** Well, I need to see if anybody has questions, if you don't mind.

**GREG HOLLOWAY:** No, I don't mind.

**LINEHAN:** Yeah, Senator Briese.

**BRIESE:** Thank you, Chairman Linehan. Thank you for your testimony here today. Great to have you. But a question for you, do you know how often that happens that the county assessor asks folks to reverify, recertify their disabled status?

**GREG HOLLOWAY:** No, I don't. Because last year it was like my county assessor come to me and asked me to get that bill going. So I talked to Senator Kolterman for non-service-connected. But in a smaller county, they know everybody. So they know when you buy-- your income, that your income changes, you know? But I see where in Lancaster and Douglas and Hall County, they don't know everybody in the county. So they probably are a little more diligent on-- on that and want that probably a little bit more. But the smaller counties across Nebraska, they know everybody.

**BRIESE:** OK. Thank you.

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**GREG HOLLOWAY:** All right.

**LINEHAN:** Thank you, Senator Briese. Other questions? Senator Friesen.

**FRIESEN:** Thank you, Chairman Linehan. I guess my question is, do they make them-- do they make you go through the whole certification, renewing the doctor certification, or are they just requesting certification that nothing has changed?

**GREG HOLLOWAY:** Well, I always-- every year we fill out the application process. Income-- incomes, because at now we don't have an income guideline for a 100 percenter, so they don't even have to do that, really. But if you're on-- if you're less than 100 percent and 65 and over, there's still those income guidelines if you're a veteran. So you still need to do that certification process through your income verification, so they know your income.

**FRIESEN:** But you don't-- you don't--

**GREG HOLLOWAY:** It's a very simple process and--

**FRIESEN:** But you don't know if they have to go to the doctor and get recertified that they're totally disabled?

**GREG HOLLOWAY:** Well, they don't have to anymore.

**FRIESEN:** OK. Yes, so it's just a--

**GREG HOLLOWAY:** They could use the-- the U.S. Department of Veterans Affairs issues what's called a homestead exemption letter. You go to your county veterans service officer. I was a county veterans service officer between '90-95 in Lancaster County here, so I did a lot of them back then. And the count-- the U.S. Department of Veterans Affairs just, boom, issues a-- this-- this veteran is service-connected and rated at such and such, you know, so.

**FRIESEN:** OK.

**GREG HOLLOWAY:** Pretty simple.

**FRIESEN:** Thank you.

**GREG HOLLOWAY:** Pretty simple, but--

**FRIESEN:** Still have to do it.

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**GREG HOLLOWAY:** --in my county, they call me on the phone and say, Greg, get on down here and get it done. You know, in the bigger counties, they don't do that. You know, so.

**FRIESEN:** Right. OK, thank you.

**GREG HOLLOWAY:** All right.

**LINEHAN:** Thank you, Senator Friesen. Other questions from the committee? Seeing none, thank you very much--

**GREG HOLLOWAY:** Thank you.

**LINEHAN:** --for being here. Appreciate it. Other proponents.

**BARBARA BOLTER:** I'm Barbara Bolter, B-a-r-b-a-r-a B-o-l-t-e-r from Bellevue, Nebraska. First off, I'd like to say thank you for allowing me this time to-- to speak in support of LB841. This would strike through the current verbiage that allows the county's assessors to strip away homestead tax relief from 100 percent service-connected disabled veterans. For example, Sarpy County requires these vets to file prior to June 30th annually to qualify for property tax relief or lose the benefit. And in my case, because I was granted a 100 percent service-connected disability in August, that missed the deadline by two months. I was denied the ability to file for tax relief for that year. I have to wait until the following year in order to apply. This delay was through no fault of my own, but yet I am being penalized because of the tax assessor. So moving on, I've worked closely with our veteran population for nearly five years, and I can say with conviction that burdening these 100 percent service-connected disabled veterans with having to remember a file date is grossly unfair, if not mean-spirited. Realize that a number of these vets are battling not only obvious physical disabilities, but the unseen emotional trauma and cognitive impairments that are just as crippling. In fact, it's the lack of the obvious that concerns me the most. The homestead exemption in its current form burdens our disabled vets with having to remember and file paperwork before a certain date. This assumes these vets are well-minded enough to do so. But some are disabled to mental and or emotional issues and their goal is to get through the day. And an arbit-- arbitrary date set forth by a government entity is not even on their radar. Their goal is just to survive the day. So let's say this day slips by and the date, filing date is missed. What happens now is the disabled vet is burdened with thousands of dollars of taxes that were not budgeted for, and the county is quick to recoup the revenue because of the "gotcha clause." This gets back to my statement referencing being mean-spirited. These vets are already at a

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disadvantage. So I'm asking you, is it morally and ethically right to penalize this vulnerable population? LB841 would protect the disabled vets. It would shield them from an unfair financial burdens that counties have been allowed to inflict due to their caveats. Passing LB841 would not only help these vets, but it would show our gratitude and recognize the sacrifice these vets have made so that our citizens, like you and me, can continue to speak openly and voice our concerns in the land of the free. I encourage you-- I ask you, join Senator Crawford and I in protecting these disadvantaged vets by passing LB841. Thank you so much for your time.

**LINEHAN:** Thank you for being here. Are there questions from the committee? Seeing none, thank you very much for being here. Are there other proponents, people supporting the bill? Are there any opponents?

**JON CANNON:** Good afternoon, Chairwoman Linehan, distinguished members of the Revenue Committee. My name is Jon Cannon, J-o-n C-a-n-n-o-n. I am the deputy director of the Nebraska Association of County Officials here to testify in opposition to LB841, a bill brought by Senator Crawford. We would like to thank the senator for bringing this bill. It highlights a lot of very important issues that confront our veteran community. And certainly one of the homestead-- the homestead program is one of the most popular programs, probably the only time that people go into the assessor's office with a smile on their face. And we don't want to upset the apple cart as far as a program that provides targeted property tax relief, particularly to some of our most vulnerable populations. However, one of the issues that we do have is that this applies equally to service-connected disability and folks that have a non-service-connected disability. And in the service-connected disability case, you're getting a letter from the Department of Veterans Affairs. We don't have any quarrel with that. In the non-service-connected disability case, you're getting letters that are being sent to you from a doctor, a physician's assistant, a PRN, etcetera, someone down the line. A lot of times it has been our experience for-- with county assessors, that there are a lot of times that those sorts of medical professionals do not quite understand exactly what we mean by a total permanent disability. And there are a lot of times that those letters are signed without really knowing what they-- what that means. In many cases, we've had assessors that have called the doctor after the fact and have said, [INAUDIBLE] here's the legal definition of a total and permanent disability. And the doctor said, if I had known that, I would never have signed the letter. All this is, is a means for the county assessor to act as a check on something that when they think that something's not right. And for what it's worth, county assessors, they're not out there looking for,

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you know, looking to recoup any lost revenue because, as you know, this is something that's reimbursed by the state. But by the same token, they are probably the only people, the best people that are in a position to say something isn't quite right here, we're going to investigate further. It's for that reason that we think that, at the very least, the county assessor should have a role to play as far as acting as that check with these sorts of letters. Speaking personally, both my parents are Air Force veterans. My mother has a service-connected disability in excess of 50 percent. I have a great deal of sympathy for this population. Both my grandfathers fought in World War II. You know, this isn't to take nothing away from our veterans, they've all served honorably and with distinguished service. But by the same token, we do have to have a check when we're talking about playing with the state's money. And with that, I'd be happy to take any questions you might have.

**LINEHAN:** Thank you, Mr. Cannon. Are there any questions from the committee? Senator Friesen.

**FRIESEN:** Thank you, Chairman Linehan. So what does-- what does a county usually require when they do this check? I mean, if they have to recertify every year, what's entailed for the person that you're requesting that from?

**JON CANNON:** In my experience, Senator, it's going to vary from-- from one-- one county assessor to the next. As the gentleman that testified prior to me had indicated, in smaller counties, they know all of their-- all their constituents. And if-- if Bob has a 100 percent service-connected disability, everyone knows that. And it's in those cases where you've got a-- you've got a county assessor that says, well, wait a minute, I didn't know that you had 100 percent service-connected disability or non-service-connected disability, that maybe that question is going to be raised. And it's those sorts of situations that we're-- we would like to be able to have the county assessor act as a check.

**FRIESEN:** But you're-- you're gonna do this every year?

**JON CANNON:** Not necessarily. It's--

**FRIESEN:** So you choose whether or not to do it.

**JON CANNON:** That would be correct, sir. Yes.

**FRIESEN:** OK. Thank you.



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**LINEHAN:** Thank you, Senator Friesen. Senator Briese.

**BRIESE:** Thank you, again. Choosing on a case-by-case basis, right?

**JON CANNON:** Yes, sir.

**BRIESE:** OK. And how often do they exercise this ability to choose? Any-- any guess?

**JON CANNON:** I couldn't guess. I do know from based on my past experience, Senator, that when-- if I had been asked the question, I would have recommended once every five years is probably adequate. If-- if you have questions or concerns, you know, and I don't know whether or not a disability rating can change for a non-service-connected disability, but that was the question that was most frequently put to me and that was how I usually would answer that. Whether or not they heeded that, I have no idea.

**BRIESE:** OK. Thank you.

**JON CANNON:** Yes, sir.

**LINEHAN:** Thank you, Senator Briese. Any other questions? So I'm kind of confused. Are you saying that the county assessor can do what? When you say they can check, what are you saying they-- how do they check?

**JON CANNON:** They could ask for a certification letter from a physician. And, you know, like I said, the typical case would be where you get a letter that's sent from a PRN or an APRN and the county assessor says, well, you know, I'm not-- I'm not quite sure that-- that the physician or the physician's assistant, you know, is saying what they they think they're saying. And so in many cases, the county assessor will call that PRN, the physician, whomever, and will say, here's what we're working with as far as the Department of Revenue-- Revenue's regulations as to what this sort of disability means. You know, is that what you intended to sign? And there are many cases where the physician says, well, if I had known that, I would-- I would not have signed the letter the way I did.

**LINEHAN:** Well, that seems like a separate problem from the problem we're talking about. I mean, if you get people signing off that people are 100 percent disabled, that shouldn't be signing off, that's an issue. I understand. That's a different issue than saying, therefore the county assessor should have the right every year to check-- have somebody check that. I mean, it seems-- I mean, I understand your

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concern, but that seems to be a different issue than what Senator Crawford is trying to address.

**JON CANNON:** And I-- I think that Senator Crawford is trying to-- well, in-- in her opening testimony, I don't want to speak for you, Senator, I apologize. But I believe she was talking about the folks that get the letter from the Department of Veterans Affairs. That's a 100 percent, unless by an act of God something happens that, you know, someone's miraculously healed. That's not going to change. It's in those-- those cases where we have a second category where we have non-service-connected disabilities, where someone can go to the physician or the physician's assistant or an APRN and get a letter that says, well, yeah, you're 100 percent totally disabled non-service-connected. Those sorts of situations, you're-- the Department of Veterans Affairs has the expertise. They have the standard homestead letters, as the gentleman who testified before me had indicated. They understand what the state of Nebraska is looking for as far as whether or not someone is totally and permanently disabled. If I go to, you know, my-- my family doctor, he may or may not know exactly what-- what that means from the standpoint of the state of Nebraska. And so it's-- the county assessor is going to be in a better position probably than the Department of Revenue to make that phone call to the physician and say, is this what you think you meant when you signed off on this? The Department of Revenue, I've got to imagine they're accepting about 50,000 applications per year. I wouldn't imagine they would want to act as a check on-- on all these certifications that are coming in. But the county assessor is really in the best position. And so we think that probably should be preserved in those instances.

**LINEHAN:** But again, I think what you're saying then, as I heard it now twice, you're saying that the county assessor is in a better position to judge whether they're disabled than the doctor.

**JON CANNON:** They're in a better position to contact the doctor and say, here's the definition that we have from the regulations of the Department of Revenue. Does this person, in your judgment, do you really think they're, they're totally permanently disabled? And there are some-- there are instances where the doctor will say, well, if I had known that, I wouldn't have signed the letter.

**LINEHAN:** OK. Any other questions? Thank you for being here.

**JON CANNON:** Yes, ma'am. Thank you.

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**LINEHAN:** Any other opponents? Anyone in a position of neutral? Senator Crawford, would you like to close?

**CRAWFORD:** Sure.

**LINEHAN:** Oh, excuse me. We have letters, I'm sorry. Let me do this first. So we have-- I'm sorry. Get the right sheet in front of me. We have a proponent: none. Opponent: Tom Placzek, Nebraska Association of County Assessors. And neutral, and I can look at the letter, Diane Battiato from the Douglas County Assessor's Office. So with that, Senator Crawford, would you like to close?

**CRAWFORD:** Yes, I appreciate that. Thank you. And thank you to everyone who showed up to testify today. I appreciate your attention to this important bill. I just want to clarify from what information that we have. We have information from the Department of Revenue that says that individuals who qualify for this homestead extension-- exemption must file a Form 45-- 458 each year. So what we have is information saying that the Department of Revenue is telling people they must file this recertification form each year. And again, some counties may be better at calling and reminding people to get that form in. But this is-- it is being used now currently to require a form being filled out each year. And-- and the-- we talked a bit about the other categories that aren't permanently disabled veteran category, and those categories are individuals who have a permanent disability that have lost-- and have lost all mobility as to preclude locomotion without the use of mechanical aid, individuals who have undergone amputation of both arms above the elbow or who have a permanent partial disability of both arms in excess of 75 percent, and developmental disability-- people with a developmental disability. So these also are people who are not expected to change their medical status. And I would agree that the assessors have an important role to play in checking applications. But I think that certification question about whether it's an appropriate medical disability is what would happen on that first round. And that's not something that, again, once they're certified as having a permanent disability. And if that's done correctly the first time then we shouldn't need to be rechecking that each year. And that's the purpose of the bill to try eliminate a recertification for people who are in these permanent disability categories each year.

**LINEHAN:** OK. Thank you. Are there questions from the committee? Senator Groene.

**GROENE:** Question. Maybe the reason they're doing that is to make sure the person hasn't passed away or something. How else do they know if

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somebody is living there and then they pass away and their spouse or somebody else now who's living there is not continuing to get the benefit that the-- that the veteran got?

**CRAWFORD:** So you're--

**GROENE:** I mean, I don't know how they-- how they--

**CRAWFORD:** Yeah.

**GROENE:** --handle that at the county, or that that person didn't move out and living somewhere else, but the homestead exemption stayed with the property.

**CRAWFORD:** If that kind of certification is necessary, that would seem to be a much simpler certification than a medical certification.

**GROENE:** Yeah, because you get the medical certification--

**CRAWFORD:** Yeah.

**GROENE:** --doesn't mean you're living there, does it?

**CRAWFORD:** Yeah.

**GROENE:** You just send that.

**CRAWFORD:** Yeah.

**GROENE:** Anyway, thank you.

**LINEHAN:** Thank you, Senator Groene. Other questions from the committee? Seeing none.

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

**LINEHAN:** Thank you. That brings the hearing on LB841 to a close and we will open the hearing on LB952. Senator Wishart will open.

**WISHART:** Well, good afternoon, Chairwoman Linehan, and members of the Revenue Committee. My name is Anna Wishart, A-n-n-a W-i-s-h-a-r-t, and I represent the 27th District in west Lincoln. I think this is the first time I've been in front of your committee in my four years of service here, so it's exciting. We'll see how this goes. So I'm here today to introduce LB952, a bill that seeks to expand the current homestead exemption for disabled veterans. Currently, we provide a homestead exemption for veterans who are 100 percent disabled due to

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service and non-service-related injuries. The goal of LB952 is to expand that exemption to veterans who are between 50 percent and 100 percent disabled, as determined by the United States Department of Veterans Affairs. The percentage of homestead exemption that a disabled veteran would qualify to receive would be equal to the percentage of their disability. We had a drafting error with LB952 that was completely my fault. I am not used to these-- this area of statute. And so I didn't realize that we had to change two separate areas of statute to expand the homestead exemption to impact both disabled veterans with service-related and non-service-related injuries. So LB952 only expands a program for non-service-related-- related injuries, and it's always been my intention that service-related injuries would be included in this expansion. I've passed out AM2148 that addresses the issue. We were able to get that done from Bill Drafters very quickly. I want to thank them and thank Micah for that. Unfortunately, though, the fiscal note does not reflect my intentions with this bill. We can anticipate a higher increased fiscal note with this amendment. My staff and I did reach out to Department of Revenue and Department of Veteran Affairs to estimate the true cost of expanding this program. It's difficult to get an exact cost. And to be honest with you, the fiscal note that you have in front of you just for the bill, even without it being amended, is an approximation. According to the United States Department of Veterans Affairs, in 2018 there were 17,629 disabled veterans in Nebraska that were at least 50 percent disabled. And so this is the population that I'm truly looking to impact. And if this committee is really serious about working on this bill and advancing it this year, my staff and I will work pretty hard to get you an accurate fiscal note of what the fiscal impact would be using those statistics. This issue was brought to me by a constituent. He's very passionate about providing relief for disabled veterans in our state. And I'm really honored to have brought this bill on his behalf and on behalf of the many men and women who have bravely served our great country. I intend to work on this bill for the long-term with this committee because I believe it is the responsibility for us to support the men and women who serve our country and are injured in service. So thank you so much for your time. I'm happy to answer any questions.

**LINEHAN:** Thank you, Senator Wishart. Are there any questions from the committee? Senator Friesen.

**FRIESEN:** Thank you, Chairwoman Linehan. So just in our previous bill, we talked about service-related or non-service-related disabilities. And obviously the physicians that are out there that are signing some of these letters probably don't know the qualifications for being 75

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or 80 or 100. Is that going to be a problem down the road if we're already seeing it a little bit? And so you're starting to really break it down into 70, 80, different percentages. And if-- if there's not guidelines for them to follow and they're not understanding what they're doing, are we going to open up a door we don't want to open?

**WISHART:** That's a good question, Senator. I wasn't aware until sitting and hearing this, the previous bill, that this-- that would be an issue. I-- I do believe that at least with the service-related injuries, those are all qualified for by the-- by Veterans Affairs and the VA. And so I think there really is a litmus test to ensure accountability with that. But I'm happy to work with the committee if-- if that's an issue and a hurdle that we need to overcome.

**FRIESEN:** I'm sure the-- the service-related ones I have no question about.

**WISHART:** Yeah.

**FRIESEN:** It's-- it's the non-service-related that will be the difficulty.

**WISHART:** Yeah.

**FRIESEN:** So thank you.

**LINEHAN:** Thank you, Senator Friesen. Senator Groene.

**GROENE:** This isn't related to the person's ability to make an income?

**WISHART:** No. This is expanding both of the current programs that exist for veterans who are 100 percent disabled. And so it doesn't-- for veterans who are 100 percent disabled with a service-related injury, it is not--

**GROENE:** Well, somebody with 100-- excuse me, but wouldn't somebody with a 100 percent disability would-- one would expect they probably don't have the ability to make an income. Somebody with 50 percent could be an accountant in a wheelchair and make \$300,000.

**WISHART:** Potentially.

**GROENE:** And you're going to-- is this a reward for being a veteran, or is this a practical thing for an economic situation they're under?

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**WISHART:** Both. I think there are obviously cases where people are 50 percent disabled and are able to hold a job. I think that there are cases where that's not true. And this would be helping them out.

**GROENE:** There's no income limits then?

**WISHART:** I'd be willing to look at the income limits. When we first introduced this bill, we mainly just wanted to expand the programs as they are and bring that before you. I'm willing to work with this committee if that's something you want to address.

**GROENE:** Question.

**WISHART:** Yeah.

**LINEHAN:** Thank you, Senator Groene. Other questions from the committee? Seeing none, thank you. So first we'll have proponents.

**DENNIS LOOSE:** Good afternoon, Senator Linehan, and members of the Revenue Committee. I'm Dennis Loose, D-e-n-n-i-s L-o-o-s-e, and I'm here in support of LB952. I and other Nebraska veterans very much appreciate Senator Wishart and for introducing this bill, and Senator Brewer for cosigning. LB952 is for Nebraska veterans who served our nation honorably, have done our best to be good citizens and have a significant service-connected VA disability, but not a rating of 100 percent. I'm a lifelong Nebraskan and served in Vietnam in 1967-68 in the 9th Infantry Division. During that tour, I received a Purple Heart for wounds received in combat. As a result of my military service, I developed tinnitus, [INAUDIBLE] sustained significant hearing loss. I've been diagnosed with post-traumatic stress disorder and most recently was diagnosed with lung cancer. When I was in Vietnam, the area I was in was heavily sprayed with Agent Orange and the VA determined those of us who were in the country during that period are presumed eligible for disability compensation with the development of certain types of cancer, lung cancer being one. I had to have my upper lobe of my right lung and all the lymph nodes around it surgically removed. Each CT scan I have since then is an adventure to see where and if the lung cancer will show up again. I have been repeatedly told there is no cure for lung cancer. Due to these service-connected conditions, the VA determined I have a service-connected disability rating of 80 percent. I tell you this not to get your sympathies, but to point out for those of us who don't have a 100 percent rating, it doesn't mean we suffer any less with our physical, and in many cases psychological conditions associated with our service. And the differences between rating percentage is sometimes a fine line. LB683 in 2016 gave veterans with 100 percent service-connected disability

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rating a total exemption from property tax. While we applaud this, I feel the rest of us veterans that have a significant service-connected disability deserve consideration too. I hope you will agree. Last year and again this year the Governor, in his address to Legislature, listed among his priorities that in addition to income tax reduction for retired military personnel, a desire to do more for veterans to retain in trust into Nebraska and his desire for efforts to reduce property taxes. LB952 addresses both of those priorities. I assume that most Nebraska veterans who would benefit from LB952 are not retired from the military, but we served our time, came home to Nebraska and tried to live our lives the best we could. We would not benefit from an income tax reduction for military retirement pay. It is also important to point out that veteran's disability compensation ends when we die. Our spouses no longer have that income to help with their living expenses. We have been in our home 21 years, and passage of this bill would certainly help my wife and others in similar situations maintain their homes when we are gone. I urge the committee to advance LB952 to the floor for consideration this year. I know there is a fiscal impact, but Nebraska veterans that have significant service-connected disabilities that would benefit from the passage of LB952 deserve to have our service valued too. Thank you for your time and consideration, and I'd be glad to answer any questions.

**LINEHAN:** Thank you very much for being here, sir. Are there any questions from the committee? Senator McCollister.

**McCOLLISTER:** Yeah, thank you, Chairwoman. So you-- you currently receive benefits from a veteran's administration--

**DENNIS LOOSE:** Correct.

**McCOLLISTER:** --for the disability, correct?

**DENNIS LOOSE:** Correct.

**McCOLLISTER:** And you also have a homestead exemption from the state of Nebraska, correct?

**DENNIS LOOSE:** No, I do not.

**McCOLLISTER:** You do not have an exemption currently?

**DENNIS LOOSE:** No.

**McCOLLISTER:** Because you're less than 100 percent disabled?

**DENNIS LOOSE:** Yeah, I don't-- I don't have a homestead exemption.



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**McCOLLISTER:** But those people that have an exemption, once the veteran dies, does that benefit transfer to the spouse?

**DENNIS LOOSE:** I believe under the previous-- the current legislation, yes. If I read it correctly.

**McCOLLISTER:** OK. Thank you.

**DENNIS LOOSE:** Yeah.

**McCOLLISTER:** Thank you for your service.

**LINEHAN:** Thank you. Senator McCollister. Other questions from the committee? Senator Groene.

**GROENE:** I'm not going to guess your age, but you're old enough to apply for homestead exemption like anybody else.

**DENNIS LOOSE:** Correct.

**GROENE:** But you have-- make too much income?

**DENNIS LOOSE:** Yes.

**GROENE:** Thank you.

**LINEHAN:** Thank you, Senator Groene. Other questions from the committee? Thank you very much for being here, sir. And thank you for your service.

**DENNIS LOOSE:** Yeah. Thank you.

**LINEHAN:** Other proponents. Are there any opponents? Go ahead. Thanks.

**JON CANNON:** Chairwoman Linehan, distinguished members of the Revenue Committee, good afternoon. My name is Jon Cannon, J-o-n C-a-n-n-o-n, I am the deputy director of the Nebraska Association of County Officials, here in opposition to LB952. As I have stated in my previous testimony, the Nebraska Association of County Officials values the service of our men and women in uniform. We don't want to take away from that. Our only means-- reason for being here in opposition is this represents a further erosion of the tax base. I know that total reimbursement for the homestead exemption program is not guaranteed from one year to the next because it's an appropriation that has to be taken out. And because of that, a potential erosion of the tax base, and with the fact that counties have nowhere else to go

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as far as making up their levy, that is the reason for our opposition today. Be happy to take any questions.

**LINEHAN:** Thank you. Are there any questions from the committee?  
Senator Crawford.

**CRAWFORD:** Thank you, Chairwoman Linehan. And thank you for being here today.

**JON CANNON:** Yes, ma'am.

**CRAWFORD:** So just to clarify, aren't you re-- reimbursed from the state for homestead exemption?

**JON CANNON:** We are re-- the counties are reimbursed from the state for homestead exemption. However, that's not guaranteed. They're, in any given year, for whatever reason, the Appropriations Committee could decide not to appropriate the full amount for homestead exemption.

**CRAWFORD:** Has that ever happened in your experience that you know of?

**JON CANNON:** I-- I don't know of-- of that having happened in my tenure working with property taxes. I know that it's been discussed, but I don't have any personal experience with it actually having been withheld.

**CRAWFORD:** Thank you.

**JON CANNON:** Yes, ma'am.

**LINEHAN:** Thank you, Senator Crawford. Other questions? Could you find out if we've ever not fully funded the homestead exemption?

**JON CANNON:** Yes, ma'am. I'd be happy to.

**LINEHAN:** Thank you.

**JON CANNON:** Yes, ma'am.

**LINEHAN:** I don't see any other questions. So thank you for being here.

**JON CANNON:** Thank you.

**LINEHAN:** Other opponents? Senator Wishart, do you want to close?

**WISHART:** I think we have to do neutral.

**LINEHAN:** Oh, I'm sorry, neutral. I'm so sorry. Neutral.

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**GREG HOLLOWAY:** Can't get rid of me that easy. Again, my name is Greg Holloway, G-r-e-g H-o-l-l-o-w-a-y. And in this case, I am representing the Nebraska Veterans Council, which is made up of eight recognized veterans organization and one county veterans service-- services association. And I am the legislative advocate for the Nebraska Veterans Council. We discussed this in our regular meeting about legislative issues last Tuesday, and we decided to test-- asked me to testify in a neutral capacity on this bill because we would like to see it expanded a little more, to be honest with you. And we do have some-- some questions about the bill and my-- it's my job to be the watchdog to make sure it doesn't affect any existing legislated-- legislation on a homestead exemption. I think some of those questions were answered today for me already, but we would like to see a little different bill to come out of it. And we'll be working with the senator and-- and see if we could figure something out that would be a little more [INAUDIBLE]. As far as I'm concerned, and our organization is concerned, a little more palatable. And if I could answer a question that Senator McCollister asked, if homestead exemption from when the veteran is deceased, does it pass to the surviving spouse? This passes to the surviving-- surviving spouse only if that surviving spouse is eligible for DIC. So to be eligible for DIC, you have to either die of a service-connected disability, or die as a result of conflict or military service, or have at least 10 years service-connected disability at a rate of 100 percent. And then it will transfer to what's called DIC, which is a benefit for the surviving spouse. So it does transfer that way. So if you have any questions, I am pretty knowledgeable on a lot of that, as being county veterans service officer. And I still keep my hand in it as much as I possibly can, so I'm up on what is going on around the state of Nebraska because I'm kind of the mouth so. And most of you know that already in here. So thank you.

**LINEHAN:** Thank you, Greg. Did I-- did he say his name and spell it? OK. Do we have any questions from the committee? Yes, Senator Crawford.

**CRAWFORD:** Thank you, Chairwoman Linehan. And thank you for being here, Mr. Holloway. Just to clarify your-- would you be in support of the expansion of the homestead exemption to categories less than 100 percent and--

**GREG HOLLOWAY:** By all means.

**CRAWFORD:** So that part of the bill you're supportive of?

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**GREG HOLLOWAY:** Oh, that, we support that. We'd just like to maybe see there's no income guidelines to start with.

**CRAWFORD:** OK, so that's your concern.

**GREG HOLLOWAY:** Which is gonna cost a lot of money. But household-- the definition of-- of household income, I'm not 100 percent sure of, as we discussed that earlier. So household income sometimes in the cases of 50 percent service-connected and more, your spouse's income is going to just knock you out to start with. And then if you're 65 and over as a veteran, you can still apply, but the rules are the same. But it is you have to be 100 percent at 65 and over, deemed 100 percent so. But that's by a medical doctor, not the VA.

**LINEHAN:** Thank you.

**GREG HOLLOWAY:** All right.

**LINEHAN:** I'm sorry, were you done?

**CRAWFORD:** That's fine.

**LINEHAN:** OK. Thank you, Senator Crawford. Other questions from the committee? Not seeing any, thank you.

**GREG HOLLOWAY:** Thank you.

**LINEHAN:** Other neutral testimony? OK. Looks like you can-- you're waiving. Excuse me, letters for-- there were no-- there was one. There was no proponents, no opponents, and one in neutral, and it was Diane Battiato, Douglas County Assessor. So with that, we'll close the hearing on LB952. We'll open the hearing on LB818, and Senator Brewer will open.

**BREWER:** I kind of felt like I should have been in on that last one--

**LINEHAN:** You weren't gonna testify.

**BREWER:** --but it wasn't my bill. All right, thank you, Chairman Linehan. And good afternoon, fellow senators of the Revenue Committee. I'm Senator Tom Brewer. For the record, that's T-o-m B-r-e-w-e-r. I represent 13 counties of the 43rd Legislative District in western Nebraska. I'd like to start with just a little bit of history on the topic of LB818, which has to go back with LB-- with LB1048 and when it was passed 10 years ago. The bill created the nameplate capacity tax for wind energy in Nebraska. This tax was created to be used in lieu of property tax. Like a lot of the bills we pass, it was a good idea

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at that time. This is a Natural-- was a Natural Resources bill introduced by the Chair at that time of the Natural Resources Committee, a Senator Langemeier. My-- my staff researched the origins of the number 3,815. They went directly to the senator and talked to him. He's still alive and well and very knowledgeable of this topic. He said the committee took the typical construction cost of an industrial wind turbine and then based on that value, they calculated how much property tax would have been paid over a 20-year lifespan of that wind turbine. The end of that equation resulted in multiplying how much electrical capacity the turbine could produce, this being its nameplate capacity, and that's how they came up with the 3,815. So just for an example, a common type of industrial wind turbine found today would be in that 2.5 megawatts range. If you take the 2.5 times the 3,815, it comes out to 9,537. This is the amount of tax paid by the owner of the wind turbine in lieu of paying ordinary, real property state property tax. I support this method. It is still a good method. Unfortunately, Senator Langemeier did not calculate a way for this tax to adjust to inflation; 3,815 remains frozen in time, while property tax on ag land has skyrocketed in-- to over 300 percent in many places in Nebraska. I'm introducing a bill to include what Senator Langemeier left out. It is a question of basic fairness. Everyone in Nebraska pay tax-- pays taxes, and that tax has gone up over the last 10 years. It is not fair to single out industrial wind energy for special treatment with a fixed tax amount that never changes. I used the consumer index-- consumer price index, the CPI, as a way to index the tax for inflation. I spoke with the tax commissioner, Tony Fulton, and he subjected-- suggested the CPI. I'm not married to this idea. If the committee thinks that they have a better way of accomplishing this tax so that it is fair and is calculated over time and not fixed, then I would be open to those suggestions. But the bottom line is that the tax on wind energy-- that wind-- that wind energy pays instead of property tax cannot remain chiseled in stone for eternity while everyone else's taxes continue to increase. It's not fair, it's not right. With that, I would be happy to answer any questions.

**LINEHAN:** Thank you, Senator Brewer. Are there questions from the committee? Senator Groene.

**GROENE:** Senator Brewer, did you-- did you calculate if this would have been in place since Langemeier, what the tax would be today?

**BREWER:** I did not. I didn't think there was any way to do retroactive on it, but--

**GROENE:** No, I mean, just for--

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**BREWER:** No, I probably should have. That number would be relatively high, obviously, because just-- you know, just the math when you look at what the CPI has been for the last 10 years. But what I'm trying to do now is at least start the clock now, and at least we'll have some stairstep of a way to make sure that it's fair in the amount that they pay.

**GROENE:** Ag land, though, didn't go up CPI. It went up multiples, double digits, 10, 15 that the windmill sits on.

**BREWER:** The problem is the formula that you would use if-- if you were to try and keep it-- so say it did parallel ag land. Which I understand there's some logic to that in that that-- that that footprint, that amount of ground that that turbine, the roads into the turbine, all that cover up is ag ground. But they're just-- it would be hard to figure out a formula to do that, so hence the CPI.

**LINEHAN:** Thank you, Senator. Thank you, Senator Groene. Are there other questions from the committee? Is that the fiscal note that the-- Senator Brewer, if you have a copy of it from the Nebraska Association of County Officials. I'm assuming what they're saying here, if this is what-- so it's-- did you find it? In our books, it's like the second page in from the--

**BREWER:** Right.

**LINEHAN:** OK. It says in the middle of the sheet here, Adams County, I'm assuming it's \$5,981. It's the 2018 receipts. And I assume the 102 is what, if it was adjusted by CPI.

**BREWER:** Correct. I think that's the--

**LINEHAN:** Would be the additional tax revenue.

**BREWER:** Correct.

**LINEHAN:** OK. Well, that's helpful. Pretty significant in some cases.

**BREWER:** In some places.

**LINEHAN:** Other questions from the committee? Seeing none, are you gonna stick around to close?

**BREWER:** I have finished in Government. I'm here and available.

**LINEHAN:** Thank you. Proponents. Go ahead.

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**JON CANNON:** Thank you. Chairwoman Linehan, distinguished members of the Revenue Committee, my name is Jon Cannon, J-o-n C-a-n-n-o-n, here to testify in-- pardon me. I'm the deputy director of the Nebraska Association of County Officials here to testify in support of LB818. Thanks very much to Senator Brewer for having brought this bill. He highlights an important distinction. When this formula was first calculated back in 2009, it failed to account for the fact that original costs are going to go up and the taxes are going to go up. To the extent that Senator Brewer has indicated that he's not necessarily married to CPI-U, I did some back-of-the-envelope calculations the other day. I used the Department of Revenue's information as to the growth of personal property tax in the state. It actually kind of fairly roughly tracks the CPI, I think it was about 1.69 percent or something like that, which is pretty close to 1.7 percent in the last year and on an annualized basis. And so that-- that could be a surrogate. I think you might end up at about the same place. But to the extent that this was the deal that was struck for the folks that had original cost back in 2009, certainly that probably shouldn't be disturbed, because essentially what we did is we said what's the total amount of property taxes that you're going to take in over a five-year period? Because that's what a wind turbine has, is a five-year life. And we--what's the expected life for that wind turbine? It's about 27.5 years. You divide that number by this number, and that's how we came up with \$3,518. To the extent that the original cost for currently-produced wind turbines or wind turbines that are produced five years from now could go up or down or whatever, certainly it seems like that would be a good starting point. But with that, I'd be happy-- oh, and I'm sorry, I wanted to address the question that you had, Senator Linehan, about the numbers that were put together from NACO. And you're act-- absolutely right. Those numbers represent what it would be over and above the current amount of excise tax taken in. Thank you, and I'd be happy to take any questions.

**LINEHAN:** Thank you, Mr. Cannon. Are there any questions from the committee? Senator Groene.

**GROENE:** Five years, huh?

**JON CANNON:** Yes, sir.

**GROENE:** So it's the sixth year and it's standing there. It's not running because the bearings are out in the generator. They still pay the tax too, as long as it stands there?

**JON CANNON:** Yes, sir. The excise tax, yes, sir.

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**GROENE:** The 3,000?

**JON CANNON:** Yes, sir, \$3,518 per kilowatt-- per megawatt, pardon me.

**GROENE:** How would-- have you ever had any-- any county had any come off the tax rolls because they claimed it was torn down?

**JON CANNON:** Not as far as I know, sir.

**GROENE:** Appreciate it

**JON CANNON:** Yes, sir.

**LINEHAN:** Thank you, Senator Groene. Other questions from that committee? Seeing none, thank you very much, Mr. Cannon.

**JON CANNON:** Thank you.

**LINEHAN:** Other proponents? OK, opponents?

**DAVID LEVY:** Chair Linehan, members of the committee, good afternoon. David Levy, D-a-v-i-d L-e-v-y, Baird Holm law firm, here in opposition to LB818 on behalf of BHE Renewables and Kimball Wind, LLC. I'm going to respectfully disagree with some of Senator Brewer's history of the nameplate capacity tax. I was part of the process that created that tax at the time. If Senator Langemeier is watching and he disagrees with my recollection of it, he and I should get together and talk about that. But a couple of really important things, rather than just going through the history, which I had planned to do. The nameplate capacity tax only replaced personal property tax. It did not replace real property tax. Real property tends to appreciate in value for tax purposes. Personal property depreciates in value for tax purposes. Wind energy property, personal property, and solar energy personal property are five-year class life property. So they depreciate actually over a period of six years and they depreciate very quickly. After three years, 71 percent of the value of that property is depreciated. And after the first wind farm was built and operating in Nebraska, actually the county, the host county, Knox County, recognized the problem and brought the problem to the Legislature and to the developer, to the industry, and said, hey, we're gonna get a huge amount of tax upfront here and it's gonna go down and we're gonna get very little. Because much of the value of a wind farm is personal property, everything above the ground, essentially. So that wind turbine is personal property. And so we worked together, the industry did at the time with Senator Langemeier and the Association of County Officials, to come up with a replacement for the personal property



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part of the tax. Wind farms also pay real property component, typically about \$2,000-2,500 per megawatt. Not calculated that way, of course. It's locally assessed real property tax like anything else, but that's kind of what it comes out to be. The Legislature hired an economist from the university. I believe it was Dr. Eric Thompson, and he calculated on that operating wind farm in Knox County under-- under the valuation of it for personal property, what it would pay over its life. And it would only pay out over those six years because that value would have depreciated to zero. He found information that the average life of a wind turbine was 27.5 years. He took that total, divided it by 27.5 and got \$3,518 per megawatt per year as the replacement for that personal property tax. The idea absolutely and-- and the mandate fairly from the Association of County Officials was that the amount of tax paid over the life of this project has to remain the same. If that wind turbine is there or that wind farm is there beyond 27.5 years, it keeps paying, which is already sort of an inflationary factor in the existing tax. The existing tax also by being level, as opposed to a tax that depreciates to zero very quickly, has a time value of money accommodation in it because that tax is paid every year, year after year, whereas the personal property taxes is really only paid at the beginning. I want to be very clear here. My clients in the wind and solar energy industries absolutely want to pay their fair share of taxes. I go to county boards, it feels like almost every week, for conditional use permits and other things for wind and solar facilities, and property taxes are absolutely one of the biggest things that we talk about. It's a big benefit that these projects can bring to these rural counties. Sometimes they will add 20, 30, 40 percent to a county's tax revenue in one project. But this bill is apples and oranges. It's applying-- and it would imply an inflation factor to something that actually depreciates. That's the most important thing I hope I can leave you with. I know that the orange light is on here. The one other thing I would like to say is this tax is actually really been an incentive for this industry in our state. It doesn't cost the state anything, it doesn't cost the counties anything. But because it's so simple and it's so understandable and it's so predictable, as developers do their pro formas and figure out what they have to sell the power for and what they can promise investors in terms of a return, it's really turned out to be a benefit to the industry and the state and an incentive to developers. If you take away that certainty and that simplicity by an inflationary adjustment or something like that, that would take away from that incentive. And as the-- as one of the testifiers, I think, mentioned, I know the red light is on, you would also again penalize those projects for being personal property. We don't inflate other personal property. Thank you.

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**LINEHAN:** Thank you very much.

**DAVID LEVY:** I'll be happy to answer any questions.

**LINEHAN:** Thank you. Are there questions from the committee? Senator Briese.

**BRIESE:** Thank you, Chair Linehan. And thank you for your testimony, Mr. Levy.

**DAVID LEVY:** Sure.

**BRIESE:** You talked about Mr. Thompson's analysis or calculation of what the value of the personal property tax would be and then extending it over 27.5 years. Did he account for inflationary factors or he did-- did he account for the time value of money when he made that calculation?

**DAVID LEVY:** Well, yes and no. I mean, what he did is he took the-- that project was already paying the personal property tax in that first year. So it had been valued for personal property. The personal property had been valued for tax purposes. So my understanding is he took that amount, those six years of what it would pay as it depreciated to zero, and added those up exactly as that project would have paid that tax had the current-- the then current system continued. So it really was the system as it is. I don't know. It sort of accounts for time, value of money, but I don't think he did anything more to his calculation than I described.

**BRIESE:** But he determined a lump sum that the six years-- would have been paid out over the six years and extended it out over 27.5 years so.

**DAVID LEVY:** That's right.

**BRIESE:** I'm thinking that the time value of money wasn't accounted for there and should have been.

**DAVID LEVY:** I understand what you're saying, but that still wouldn't lead you to LB818 and an inflationary adjustment. Maybe the \$3,518 should have been adjusted at the time. The flip side of that is in year 28, the developer still pays the \$3,518 per megawatt, 29, year 30, etcetera. So there's some catch up potentially there at the end. But you raise a fair point, Senator.

**BRIESE:** Assuming it extends beyond 27.5 years.

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**DAVID LEVY:** Right.

**BRIESE:** Second question, what levy rate did he use in trying to determine the personal property tax?

**DAVID LEVY:** That's a good question. I thought about that. I assume he used the levy rate that was applicable in that county to that project at that time, because that was the one actual project that he had to work from. Then again, it had already paid under the then system for one year. So there was a tax rate and evaluation that he used.

**BRIESE:** And we don't know that levy rate.

**DAVID LEVY:** I don't know what that is.

**BRIESE:** OK. OK, thank you.

**DAVID LEVY:** Sure.

**LINEHAN:** Thank you, Senator Briese. Senator Lindstrom.

**LINDSTROM:** Thank you, Chairwoman Linehan. I'm looking at the calculation going back to the \$3,518, and with the megawatts generated off that, the 2.5 megawatts, is that a pretty average or standard turbine that produces?

**DAVID LEVY:** Yeah, 2.5 to 3 is currently kind of the-- the average.

**LINDSTROM:** So any new projects, I'd imagine there's more efficiency, maybe more energy that can be created through that process. So over time, would it be plausible that the new turbines that are put in could generate more megawatts? Is that-- is that even a part of--

**DAVID LEVY:** Well--

**LINDSTROM:** I'm not familiar with this particular--

**DAVID LEVY:** Yes and no.

**LINDSTROM:** --what they produce.

**DAVID LEVY:** I mean, this, the tax is based on the nameplate capacity.

**LINDSTROM:** Right.

**DAVID LEVY:** So if that turbine is more efficient, it's-- it may have a higher nameplate capacity--

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**LINDSTROM:** OK.

**DAVID LEVY:** --in which case it would pay more tax.

**LINDSTROM:** Right.

**DAVID LEVY:** Now, in fairness, though, to your question, would that make that turbine more valuable from a personal property standpoint if somebody were to come in and value it, if it were more expensive? That-- that I don't know.

**LINDSTROM:** OK. I just was doing the 2.5 times the 3,000, and based on that amount, I wasn't sure. Thank you.

**DAVID LEVY:** Sure.

**LINEHAN:** Thank you, Senator Lindstrom. Senator Groene.

**GROENE:** I'm trying to figure out why this is completely personal property. If you had an ethanol plant, you got the structure that's anchored to the ground and then the equipment inside is personal property. That tower is real property. It's anchored to the ground. I can understand generators mounted on top being the personal property because of wear and maintenance. But why isn't the tower, like any other factory, the plant that holds the-- the infrastructure that creates the manufactured product?

**DAVID LEVY:** Fair question. The-- the determination in this of what's personal property and what's real property comes from the Internal Revenue Service. So it wasn't the decision or a determination of the Legislature or the state. And my understanding is that the theory is that you could take that down, you could take it apart, and you could move it and put it up somewhere else. But that wasn't-- that wasn't a state decision or legislative decision to my knowledge.

**GROENE:** Thank you.

**LINEHAN:** Thank you, Senator Groene. Other questions from the committee? I'm going to embarrass myself for my lack of knowledge here. So are you say-- when was this-- when was this all decided, what year?

**DAVID LEVY:** 2010.

**LINEHAN:** 2010. So has-- I assume the cost of those towers has gone up since 2010?

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**DAVID LEVY:** Not necessarily, because as the industry has developed, there's been more competition and there's a-- there's pressure on the manufacturers to compete with each other, which-- which can keep prices down. So turbine prices actually have either held steady or gone down. Depends. But they haven't inflated like you would think without knowing that history.

**LINEHAN:** So we're still basing the name capacity tax on a formula that was put together in 2010?

**DAVID LEVY:** That's correct.

**LINEHAN:** OK. That's what I was trying to figure out. Thanks. Senator Briese.

**BRIESE:** Thank you, Chair Linehan. Thank you again. One other question. Can you speak to the profitability of your industry or return on investment or do you have any benchmarks or standards there?

**DAVID LEVY:** What I can tell you about that is that wind farms are-- what do I want to compare them to? The-- the return is-- is steady but not large. So they're like if you were comparing it to an investment, it might be like bonds or a-- you know, something that a pension fund would invest in. A lot of pension funds invest in wind farms because the return is steady. It's fairly predictable, but it's not necessarily large in terms of other investments that one might make. These are very expensive projects to build. They then stand there and operate for decades, and that's really where the returns. So it's-- it's modest, but it's steady.

**BRIESE:** A number doesn't come to mind?

**DAVID LEVY:** I would hesitate to guess. And it varies, but it's, yeah.

**BRIESE:** Thank you.

**LINEHAN:** Thank you, Senator Briese. Other questions? Senator Friesen, then Senator Groene.

**FRIESEN:** Thank you, Chairwoman Linehan. So when we talk of long-term contracts with electricity that they sell, is there any inflationary factor built into that or is it a solid locked-in 20-year price?

**DAVID LEVY:** There is often an inflator-- inflationary aspect in those, usually around 2 percent.

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**FRIESEN:** Is it based on just perception or is it based on what happens in the current economic conditions as we go forward?

**DAVID LEVY:** It is set in the contract. In some contracts, the-- the base price will start low and then you'll have the inflationary factor. Some projects, the base price starts a little bit higher, there's-- and there's no inflation factor or small inflation factor. But some of them do have that in it.

**FRIESEN:** OK. So the real property is just the concrete in the ground. Is that what you're--

**DAVID LEVY:** Concrete, roads, buildings, fences, all of those kind of things.

**FRIESEN:** OK, thank you.

**LINEHAN:** Thank you, Senator Friesen. Senator Groene.

**GROENE:** You said you go to a lot of county meetings. Do you just handle Nebraska?

**DAVID LEVY:** Primarily.

**GROENE:** Iowa, Kansas, too, or-- ?

**DAVID LEVY:** I've done a project in Iowa, worked on one in Kansas, one in Missouri.

**GROENE:** Thank you.

**DAVID LEVY:** OK.

**LINEHAN:** Thank you, Senator Groene. Any other questions? Seeing none, thank you very much for being here, sir.

**DAVID LEVY:** Thank you.

**DAVID BRACHT:** Good afternoon, Chairman Linehan, and members of the committee. Thank you for allowing me to speak today. My name is David Bracht, that's spelled for the record, D-a-v-i-d B-r-a-c-h-t. Testifying here today for Catalyst Public Affairs on behalf of NextEra Energy Resources, which is a wind developer that has projects here in the state. I appear before you today to testify in opposition of LB818. And rather than go through some of the things, I might catch them later, but I thought I might address a couple of the things that-- that have already come up. One of the things, and I respect and

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understand Senator Brewer's position and the view that this nameplate capacity tax is remaining fixed and the concern that you're having inflation. But to your question, Madam Chairman, in fact, this has been something that's been tracked as far as what's going-- what's happened to the cost of the equipment and projects to produce a wind farm. And in fact, there's a company that I follow a lot, it's called Lazard, L-a-z-a-r-d, dot com, if you want to go to their website. They produce an annual report, I think the most recent one was number 12. And what's significant about that, in the last nine years, the cost of wind projects has declined by about 69 percent on a per megawatt basis. And so what they're doing there, there is the level and they have calculated a levelized cost of wind. Because I don't have any fuel, of course all of my costs, except for maintenance, is right there at the beginning of the construction. And just as Mr. Levy had said, improvements in technology, improvements of the software has made those projects more effective. So they're able to essentially get more megawatts out of a turbine, just as Senator Lindstrom had-- had mentioned. And again, so the cost on a per megawatt basis has declined by 69 percent just for the sake of it. If you're interested, solar costs have declined by about 90 percent over that same period of time. So we've seen a lot of technological improvements. I've not done the math because I hadn't really anticipated it from that standpoint. But my guess is, in fact, because of that decline, they're paying a lot more on a-- for that property tax now than they had been before. Senator Briese, you had-- had asked the question and about the time value of money. And I did go through the math and sort of calculate it out. And it was really based on a letter to the editor that tried to compare current property tax again on equipment, reflecting the fact that you're going to have it decline over that five-year period versus that-- and I just used a 20-year, actually I wasn't aware of the 27 years. And what you saw is that over that period of time, that flat payment, that 8,750, this was a pretty widely distributed letter to the editor comparing a building with paying \$54,000 in taxes in year one versus that one turbine paying \$8,750 for-- if you did that for 20 years that that declining over five years with the nameplate capacity tax would have added up to over 200 and-- and my recollection is \$270,000 and-- or excuse me, that's wrong, \$175,000, whereas a \$54,000 equipment that's depreciating over on a five years straight would pay just barely over \$100,000. So I think that would-- I don't know for sure about the time value of money, but that-- you would take that into account there. And so I'm pretty sure the nameplate would still probably catch up to that. You had also-- also asked about profitability. One of the real challenging parts in the wind industry, and particularly I think you would, because of this declining price when those projects are set up, and this is something that some of you

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may be aware. I spent four years during Governor Ricketts' first term as the Nebraska Energy Office director. So we spent a lot of time talking with the companies that are doing these, which Yahoo, Google, Facebook, and more recently even Hormel and Smithfield Foods. Some of the companies that put in those early projects, because though the-- the benefit or the price on a wind project is fixed, typically maybe some inflater, the price of wind has actually declined. And so some of those projects haven't really turned out very well for those folks. So it is a very challenging. So the profitability can really vary. That's the last point I'd like to make here given-- considering it's-- the amber light is on. One of the things that I think Nebraska's been known for in the wind industry, because you've seen a lot of states trying to do different things, is our really sure and stable approach. And one of the things that I hope the committee considers, and I hope we don't go down the path of, is making these changes because there's a lot of opportunities--

**LINEHAN:** OK.

**DAVID BRACHT:** --and we benefit today because of our stable approach.

**LINEHAN:** Thank you very much for being here. Are there questions from the committee? Senator Groene.

**GROENE:** The last testifier said there's not a lot of profit in it. But isn't there-- then why do you guys consistently underbid on the grid, fossil fuels and nuclear? Why don't you raise-- I've heard bids as low as zero that you can still make a pretty good profit just on the federal payments.

**DAVID BRACHT:** So I'm not quite--

**GROENE:** Well, just selling it on the grid.

**DAVID BRACHT:** Sure.

**GROENE:** The law says they have to take the lowest cost first. It shuts down like Sutherland's power plant. If you-- if your profitability isn't that low, why are you bidding so low?

**DAVID BRACHT:** So without getting too far into the details, I think what you're referring to, and stop me if I'm-- if I'm headed-- misunderstanding you. Today, Nebraska is part of the Southwest Power Pool. There's a-- call it an integrated marketplace. And every five minutes the electricity is priced. The day ahead price is set. All the utilities are putting in, here's how much power we're going to need,



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here's how much power we can produce. And then SPP sort of stacks that up. That price isn't the all-in price, it's just the fuel price. Which is why, in fact, wind and solar for that matter is-- is basically bid in at zero because there is no fuel price. Now what ends up happening is, is that gets stacked up to the point where the last megawatt that's needed and the first megawatt that isn't needed establishes the price that everyone gets for that-- that amount. And so just to go back to what I'm saying, that price, that bid that you're talking about, that's the fuel cost, which is effectively zero in a wind project, and that's why it gets bid in right away. Did that address your question?

**GROENE:** You're first at the trough?

**DAVID BRACHT:** Pardon?

**GROENE:** Wind gets the first shot at the trough, or all production gets paid.

**DAVID BRACHT:** Again-- again, wind is following the rules that SPP sets for--

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

**DAVID BRACHT:** --which is what's your fuel price? Now, a wind project, if their cost of construction was way too high and they were still only getting this much and it didn't cover that cost of production, then they would end up not-- not-- they would end up losing money.

**GROENE:** That's a federal.

**DAVID BRACHT:** No.

**GROENE:** Not at the Southwest Power Pool.

**DAVID BRACHT:** No, that's-- that's the price that ultimately gets built into all of our electric bills.

**GROENE:** But it's a federal policy. Cheapest goes in first?

**DAVID BRACHT:** No, I think it's-- I wouldn't say it's a federal policy, but it is the pricing mechanism that almost all of the regional transmission organizations have adopted. And that makes sense is because we want to use the cheapest electricity first.

**GROENE:** Thank you.

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**LINEHAN:** Thank you, Senator Groene. Other questions from the committee? Senator Briese.

**BRIESE:** Thank you, Chairman. Thank you for your testimony.

**DAVID BRACHT:** Yeah.

**BRIESE:** But just so I'm clear on how this \$3,500 was arrived at, they calculated what the personal property tax would have been during that first six years, correct?

**DAVID BRACHT:** Yes. And to a certain degree, it's like any piece of equipment. Yes.

**BRIESE:** And then divided that over 27.5 and there's our number.

**DAVID BRACHT:** Yeah.

**BRIESE:** OK.

**DAVID BRACHT:** I wasn't directly involved, but that's my understanding.

**BRIESE:** OK, great. Thank you.

**LINEHAN:** Other questions from the committee? Seeing none, thank you very much for being here, sir. Other opponents.

**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'll be here-- appearing today on behalf of the Advanced Power Alliance, formerly known as the Wind Coalition. For the past 9 or 10 years, we've been working with the Nebraska Legislature in developing policy to grow the renewable electric industry in the state. Our organization represents some of the leading investors, manufacturers, builders of solar, wind, and battery storage projects and a utility scale. And the organization I represent works in the states amidst the Great Plains. I have circulated to you a one-pager on a recent report we published with regard to the economic impact of investments in the state in Nebraska, actually since the Legislature embarked upon looking at our statutes and updating them and such. And clearly this is a particular point and place where statutes matter. And the work that this Legislature did is almost in a senior partner of how we got to this level of investments. This is only reflecting the wind development. Hopefully within the next year, we'll do a parallel project on the incredible amount of solar development going on. Our members are looking forward to paying more nameplate capacity tax, because if we're paying more nameplate capacity tax, we're building more projects. This was a-- this was a

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win-win when this bill was passed in that the attractiveness from-- from certainly the county aspect is that there would be a steady flow of income while the life of the project would be distributed on the same basis the personal property tax was done. It was attractive to our firms, frankly, because we would have a consistent operational cost for the same period of time. And frankly, the entire business model of wind and solar is all based upon partnerships within local communities that want us. So in this it does break out clearly the cumulative effect of the nameplate capacity tax, the real property tax, landowner payments, and the-- the various activities. Opposition would be like any other company that operates in the state of Nebraska on two points. One, this bill deals with existing contracts that are already in operation, that are understandings, and it would change those. And the fact that you would have an inflationary factor on your personal property tax, which ordinarily was something that one would depreciate. So probably like any other business in the state, our clients would probably not be too excited about doing that. At the same time, we really value our relationships with the counties with whom we work. And so I don't want to make it sound like we're against nameplate capacity tax, we're very much for it. And that concludes my remarks. Thank you.

**LINEHAN:** Thank you, Mr. Lombardi. Do we have questions from the committee? Senator Groene.

**GROENE:** What do you mean by existing contract? I mean if--

**RICHARD LOMBARDI:** Well, the power purchase agreements that are in effect for many of the-- the wind projects in the state have-- have understandings as to what the costs are to perform those, so. And most of them are 20-year types of contracts, so. The-- the way that-- the way the legislation is written, those-- the contracts that were based upon those would not be-- would be changed.

**GROENE:** So you sell your energy at a certain price for a 20-year period? That isn't what I heard earlier, I heard it changes every five minutes.

**RICHARD LOMBARDI:** Depends upon what the contract is. I think one of the great advantages of renewable energy is that they're a fixed-cost resource. We know what it's going to cost now, what it's going to cost in the future. And the contracts have different clauses in them and increases in them. So it does vary between the power purchase agreements that are entered into between the companies and the-- in our state, the public power districts.

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**GROENE:** So do you think farm ground should be personal property because it's the source of the-- of the manufacturing, like the windmill is.

**RICHARD LOMBARDI:** For the purposes of our site, they were treated as real property, because I think there has been a little bit of a mix up here that where the whole personal property tax is-- is really what nameplate capacity tax is, so.

**GROENE:** Thank you.

**LINEHAN:** Thank you, Senator Groene. Are there other questions from the committee? Senator Briese.

**BRIESE:** Thank you.

**RICHARD LOMBARDI:** Senator.

**BRIESE:** Quickly. Thank you for being here.

**RICHARD LOMBARDI:** Sure.

**BRIESE:** What's a megawatt worth? What's an average megawatt sell for--

**RICHARD LOMBARDI:** The--

**BRIESE:** --in your market, in your wholesale market?

**RICHARD LOMBARDI:** Probably-- on the construction cost of it, Senator?

**BRIESE:** No, the sale of it.

**RICHARD LOMBARDI:** Again, that's kind of dependent upon the market that it's being sold for. Because a lot-- as-- as was explained before, is that you have-- you have a changing marketplace with regard to time. So certain times you get a higher amount.

**BRIESE:** Well, what's a typical value?

**RICHARD LOMBARDI:** I don't know, Senator. I can get back to you on that.

**BRIESE:** I'm just trying to determine what percentage of your revenue or your costs or whatever does nameplate capacity tax represent.

**RICHARD LOMBARDI:** Oh, OK. That's the question. I-- let me-- let me fact you-- figure that out, and I'll get back to you.

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**BRIESE:** OK. Thank you.

**RICHARD LOMBARDI:** Sure. Thank you.

**LINEHAN:** Thank you, Senator Briese. Are there other questions from the committee?

**RICHARD LOMBARDI:** Thank you.

**LINEHAN:** So you will get back to the committee with that?

**RICHARD LOMBARDI:** Oh sure. Absolutely.

**LINEHAN:** Thank you very much.

**RICHARD LOMBARDI:** Be happy to.

**LINEHAN:** Thank you for being here.

**RICHARD LOMBARDI:** Thank you.

**LINEHAN:** Other opponents?

**JOHN HANSEN:** Madam Chairman, members of the committee, for the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I'm the president of the Nebraska Farmers Union. And the two handouts that I am giving you today are the-- the handouts that we used at the Nebraska Wind and Solar Conference last October 29 and 30. So the solar that is developed in the state is at 20-- about 26 megawatts right now of solar. And the wind on this map shows 1,974. But we've actually added 160 megawatts of additional power to the grid, November 1. So my estimated number in the new map that will be coming out, and when it comes out I'll be glad to share that with you, will be 2,134 megawatts. And so from an ag perspective of this new investment in rural Nebraska, it is one of the fastest-growing rural economic development things that are going on in rural Nebraska. And so as we work on property tax issues, new-- new capital investments, new tax base, new tax partners are certainly welcome. And so if you look at the big picture and you stand back and you look at rural economic development, and I've been working on rural economic development long before Shep's mother was a pup, that two of the things that we've done that have made the most sense is ethanol and wind. And they're both based-- when you think about it, based on natural resources, based on what we already have and control, and they're both forms of value-added agriculture. So we're taking the raw material product in the case of the ethanol and we're building additional value with it. And we're keeping a lot of that-- those economic benefits in rural

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communities where it needs to go the most. And it's also creating new tax base, new good jobs, all of those things. Similarly with wind, we're doing the same things. We're taking the wind that we own as it goes across the top of our property. Instead of putting up a windmill and pumping water, we're putting up a wind turbine and we're producing electricity, and we're being compensated through easements. And so what we're doing now is working. And I also was involved in the development of LB1048 in 2010. And my recollection of the process is-- is similar to David Levy's. The rate, I'm not certain, but I suspect that the rate that was used in the original calculation was probably an average number across the state rather than just Knox County. But the-- the-- it was, I thought, a very appropriate way to solve a problem that came to our door as a result of the Edison Mission Project that was in Knox County, where the county gets this big windfall of money and then it's gone. And so that's kind of hard to do capital investment, you know, and-- and build that into your budget. And so having that good, dependable stream where you know what it's going to be was a benefit to both the developer and was also a benefit to the county and all of the other folks who use that revenue, because they knew what it was and they could budget for it. And so I think it was a good creative solution. What we're doing now, I think, is working. If we're going to readjust that number, then I think the more appropriate way to do it is to do it in a-- in a fashion with certainty so that everybody knows what it's going to be and you do it proactively. I have a real issue with changing the rules of the game after the contracts already in place. And so for all those folks who've signed power purchase agreements, we're now changing the rules of the game after the fact and I don't think that's fair. And so I would suggest that if we're going to revisit this issue, we ought to do it in a-- in a different, more appropriate way so that all the folks who are paying the freight know in advance so that you can build that into your bid price. But I want to also remind you that if you do that and you increase that cost, that ultimately that that's a cost that's going to be paid by ratepayers in the state of Nebraska. So what we have now not only works, but we also get the benefit of that rate as-- as buyers of that electricity. And with that, I would end my comments and be glad to answer any questions if I could.

**LINEHAN:** Thank you, Mr. Hansen. Are there-- Senator Groene.

**GROENE:** So, Mr. Hansen, with your theory there about ratepayers, so is it a good thing that corn's only \$2 an acre because I can buy my groceries cheaper, that it passes on \$2 a bushel?

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**JOHN HANSEN:** I would-- I would opine that the connection between the raw material cost of electricity and the amount paid by consumers, there is more of a direct relationship between that than there is the price of raw material--

**GROENE:** All right.

**JOHN HANSEN:** --ag products and what consumers pay. And as you know, the--

**GROENE:** As a proponent for farmers, you said it's an economic benefit for windmills.

**JOHN HANSEN:** Absolutely.

**GROENE:** Who sells the seed for the wind? Who fertilizes-- sells the fertilizer? How much money do you get for the wind? Who sells the byproducts of the wind for the economic benefit for their local county?

**JOHN HANSEN:** So there is a source of new additional income that goes to town when I, as a landowner, am signing a contract to be compensated for the wind. And so for a lot of farmers, that is not going to save the farm, but it's going to be very helpful if you're on the margin because it is like a part-time job in terms of additional revenue. And so if you're right on the margin, it definitely is-- is helpful. And so that's new revenue that goes to town.

**GROENE:** To town?

**JOHN HANSEN:** Well, the more money the farmers make, the more money they have to spend when they go to town.

**GROENE:** Thank you.

**JOHN HANSEN:** They're still the economic driver of the rural economy.

**LINEHAN:** Thank you, Senator Groene. Senator Friesen.

**FRIESEN:** Thank you, Chairman Linehan. You mentioned that going retroactive, I mean, since these contracts were put in place, that was not fair. You know, and as a-- as an ag producer when I started in 1976 or 1977, my property taxes tripling were not in my foreseeable future either. And yet that's considered fair. So you say that, I mean, there's always unknowns going forward, whether it's taxes or whatever else, that can't always be accounted for and say that it's fair. I mean, do you still say that this is unfair to go back or its--

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**JOHN HANSEN:** Yep, I'll stand with that one. And the difference is that in the case of ag, you're still producing a whole bunch of stuff and you're selling it, and all different kinds of crops and all different kinds of markets. And there's a lot of risk and there's a lot of unfairness in that whole system on which we would agree. But in the case of this, this is a business, a particular kind of business that is built on-- on power purchase agreements, which are signed contracts. And so when you sign that contract, you're going to deliver X amount of electricity and you're going to be compensated at this rate. And so if you have variable rates that float within that contract, the only way that you can go into a contract is to either account for it so that you've got an automatic adjustment that then make sure that your-- your costs are compensated or you bet on the come and you put in a higher bid number in order to be able to cover what you know or estimate the cost to be. And so that will, in my opinion, drive up the costs of-- of the power purchase agreements for new folks and for existing folks. They don't, in most cases, have a rep-- any kind of a way to accommodate for those additional costs.

**FRIESEN:** But again, is that the fault of us? Or as an astute businessman, wouldn't you want to put in your contract that in case of tax increases are passed along? I mean, I didn't write the contracts. I didn't sign contracts. But as an astute businessman, if you have an uncontrollable cost that could be put on you, wouldn't you put that in your contract to cover that?

**JOHN HANSEN:** If-- I think if-- kind of the difference is between going back to the-- to the negotiated agreement that we came to between the state of Nebraska and the wind industry, which is reflected in what we have now. And it was a good faith agreement that this is the way it's going to be.

**FRIESEN:** But a couple-- a couple days ago--

**JOHN HANSEN:** And so there was now an assumption at that time for those contracts.

**FRIESEN:** A couple days ago, we heard that the state of Nebraska can't be trusted.

**JOHN HANSEN:** Yeah. Yeah, well, I don't think that it works to our advantage to just try to spread more of that around.

**FRIESEN:** OK. Thank you.

**LINEHAN:** Thank you, Senator Friesen.



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**GROENE:** I got one more.

**LINEHAN:** OK, Senator Groene.

**GROENE:** So you-- Knox County has a lot of windmills?

**JOHN HANSEN:** Yeah, I would-- I would guess that Knox County has got about 120 megawatts of wind up and it's online.

**GROENE:** And when were they put in? Just since 2010?

**JOHN HANSEN:** Well, the-- the first one, the 80 megawatts were probably just-- I'd have to go back and look at that. You've probably got the numbers on the bottom of the map that I gave you that I think it says what-- what year it was, but it had to be about then.

**GROENE:** It was you, or a couple folks said this is a huge economic development for rural Nebraska. Did you know--

**JOHN HANSEN:** I certainly have.

**GROENE:** Do you know, since 2010, Knox County's population went from 8,701 to 8,419? That they're depopulating so--

**JOHN HANSEN:** Yeah.

**GROENE:** --apparently there wasn't a lot of jobs.

**JOHN HANSEN:** Well, there's-- there's the temporary jobs which come and go from construction. There's the maintenance jobs. But there's also the additional tax base, which lowers the rest of the tax obligation for the other existing landowners. And then there's the additional revenue that-- that farmers get. So what I would say is what's going on in Knox County is going on in Nebraska and it's going on in rural America. So we're-- we are in desperate need of any and all new ways to make additional revenue and get additional tax base and get additional economic opportunities. And so this is a tool that is available, that we have not put up any wind turbines on anybody's ground in the state of Nebraska that didn't voluntarily agree to an easement. We're not-- we're not forcing turbines on folks. Well, we're working with folks who volunteered to do that. And I think it's a good tool.

**GROENE:** So do you think maybe the people that moved away from Knox County are the ones who didn't want to live by windmills?

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**JOHN HANSEN:** No, I think they're the folks who probably didn't get paid enough for their corn or their cows.

**LINEHAN:** Thank you, Senator Groene. Are there other questions from the committee? Seeing none, thank you very much for being here, Mr. Hansen.

**JOHN HANSEN:** Thank you.

**LINEHAN:** If you-- if you're going to testify, it's really helpful if you move up closer.

**JOSH MOENNING:** Good afternoon, Madam Chairwoman Linehan, and members of the committee. My name is Josh Moenning, J-o-s-h M-o-e-n-n-i-n-g. I'm director of New Power Nebraska, a renewable energy development organization. I also serve as the mayor of Norfolk. I oppose LB18-- LB818 as an unnecessary punitive tax increase on an industry that to date has invested more than \$3.5 billion in Nebraska. Our state's nearly 30 wind farms already generate close to \$10 million a year in tax revenues for local governments and schools, help-- helping their home counties ease significant property tax burdens on landowners. Wind energy is boosting local economies. Each year, farmers and landowners are paid up to \$10 million in land lease payments. Since 1998, nearly \$875 million in wind farm construction-phase spending has been injected into our local economies and almost 8,000 jobs have been created during construction, with more than 400 operational permanent jobs created in our small towns. In Norfolk and northeast Nebraska, we're experiencing the benefits-- economic benefits of renewable energy development. Sitting between two wind farm construction projects, Norfolk recorded all-time highs in sales tax receipts in 2019. I don't think it was coincidence. Our hotels, restaurants, bars, hardware-- hardware stores, and department stores are bustling with people here working in renewable energy, and prospects for further growth in the industry are strong in both wind and solar. Nationally, renewable energy is in high demand. The corporate marketplace more and more is committing to solely renewable sources for power. In 2019, renewables accounted for 52 percent of new electricity generate-- generating capacity. In a state with tremendous renewable energy potential, we're top five in wind and top 10 in solar, today would be a terrible time to create a disincentive to more development. LB818 is a tax increase that penalizes new investment in a burgeoning new industry in our state. Rural parts of Nebraska that want to grow are embracing the unique historic, economic, and environmental opportunities of renewable energy production. Help us help grow Nebraska by leaving well enough alone. I urge your strong opposition to this bill. Thank you.

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**LINEHAN:** Thank you, Mr. Moenning. Are there questions from the committee? Senator Groene.

**GROENE:** So you work for an energy company, a wind energy company?

**JOSH MOENNING:** I work for a group called New Power Nebraska, and we promote renewable development throughout the state.

**GROENE:** I read a big expose in the World-Herald about you being mayor of a big proponent of wind. Didn't mentioned that you were an employee of wind. Was that left out by coincidence?

**LINEHAN:** Mike Groene.

**GROENE:** Thank you.

**LINEHAN:** Thank you. Are there any other questions? Thank you for being here, Mr. Moenning.

**JOSH MOENNING:** Thanks.

**LINEHAN:** How many more testifiers do we have? Really? OK.

**LUCAS NELSEN:** Hello, Senators. My name is Lucas Nelsen, L-u-c-a-s N-e-l-s-e-n. I'm a policy associate at the Center for Rural Affairs. I rise in opposition to this bill because the center is deeply concerned about the effect that LB818 might have on our renewable energy industry in the state. The renewable energy industry has been a substantial new source of not only tax revenue, but new jobs and new sources of income for landowners. The handouts you're receiving right now are my written testimony, as well as a fact sheet that we produce on wind energy tax revenue in Nebraska. I'll admit it's a bit dated. If you actually look at the December, 2019, receipts, the nameplate capacity tax alone provided about \$5 million, just over \$5 million for 27 counties across the state. And I listed the top three there, but I want to zero in on Holt County. And I'm cheating a bit because I'm stealing from Mr. Hansen, who puts on the great wind and solar conference every year here in the state. And he had some folks from Holt County, which is the top county for the nameplate-- nameplate capacity tax revenue. Holt County receives about \$1.4 million in the nameplate capacity tax. They also are host to a 400 megawatt wind project. And this speaks a bit to the broader economic benefits beyond just tax revenue. That project provides about \$2 million every year to participating landowners. It also supports about 25 full-time jobs. And during construction, the developer invested about \$6 million in public road improvements which were essential to move materials and

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equipment to the project site. And those were left for the county. And it also generates \$595,000 in real property tax revenue. And I think all those numbers are notable because it is an expansive number of benefits that this single project has created for Holt County. All those benefits combined mean a lot for a small rural county in the state of Nebraska. And any sort of barrier or hurdle can harm potential new development and chip away at that revenue over time, chip away at those additional economic benefits. And I agree with previous testifiers that really the benefit that Nebraska has provided to many developers and to a lot of rural communities is that what we've done is remove barriers and provide certainty. And that's been essential to growing our industry year on year, and seeing these benefits not just be located in a few counties, but spread across the state, and really diversify what those industries are for the state of Nebraska. And I thank you for your time and stand open for questions.

**LINEHAN:** Thank you very much for being here. Do we have any questions from the committee? Senator McCollister.

**McCOLLISTER:** Yeah. Thank you, Madam Chair. And thank you, Mr. Nelsen, for being here. I missed some of the testifiers, so perhaps I'm going to ask you a question you can answer. The nameplate capacity tax in Nebraska, do you find that in other states in the Midwest? Is it fairly uniform?

**LUCAS NELSEN:** It's not entirely uniform. There are production taxes. There are different schemes. I know Iowa, for example, allows counties to-- it allows counties to set up a separate sort of agreement, as does Minnesota. But there's a pretty big variance depending on the county and even the state.

**McCOLLISTER:** Thank you. Thank you.

**LINEHAN:** Thank you, Senator McCollister. Senator Friesen.

**FRIESEN:** Thank you, Chairwoman Linehan. So what I-- what I'd like to see, I guess, when you show the numbers of dollars that go into these counties, it would be nice to know the impact that it's had on their levy over the past so and so many years that this has come into play. Because we just keep hearing about how high property taxes are there. And if this is truly provided relief, we'll see it there in their levies. And so it would be nice when you use numbers like this, you actually show maybe what it's accomplished.

**LUCAS NELSEN:** Certainly, Senator. And I'll take that into consideration. I wanted to contextualize just that, you know, O'Neill

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Public Schools, their junior-senior high school, was able to take on a \$13 million expansion and renovation. And while I don't know the exact impact the wind project has had on levies in the county, I do know that the superintendent of O'Neill Public Schools did know that that was significant in reducing the burden on taxpayers in the county. So while I don't have a clear answer, I-- you know, there is some context there.

**FRIESEN:** It would be nice to see those numbers.

**LINEHAN:** OK.

**GROENE:** Thank you. Was it you or the last--

**LINEHAN:** Senator Groene.

**GROENE:** --fellow that said we're top wind? Top wind.

**LINEHAN:** OK. It's on wind, OK.

**GROENE:** Were the five-- number in the top five wind production capacity for windmills, was it you or the last fellow that--

**LUCAS NELSEN:** I'm sorry, could you restate the question, Senator?

**GROENE:** We have in the top five, the wind available, the wind speeds favorable to windmills, is that right?

**LUCAS NELSEN:** We're third or fourth in potential depending on which map you look at.

**GROENE:** So now the windmills have to come to us, right? So why wouldn't we-- why wouldn't we just capitalize on that and reap more of the-- more of the benefit for the state of Nebraska by raising the taxes? They have to come to us, is that's not true?

**LUCAS NELSEN:** Senator, I think perhaps my only consideration is that really what-- what I think has benefited the state has been that certainty provided by the nameplate capacity tax. And so I think the real key is to avoid any volatility. And that's my concern, the Center's concern with LB818 is that the mechanism that's employed might provide too much uncertainty, not only to developers, but also to county officials that are able to set budgets very clearly when they have a project located within the county. And also developers are much better prepared to determine the long-term economics of a project. I think there are considerations for how it could be

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recalculated. I think many testifiers have given the context for how it was set originally. And maybe that's a better pathway.

**GROENE:** Thank you.

**LINEHAN:** Thank you, Senator Groene. Are there other questions from the committee? Seeing none, thanks very much.

**LUCAS NELSEN:** Thank you.

**LINEHAN:** Is there anyone in the neutral position? No more testifiers? I do-- Mr. Lombardi, who is very efficient evidently, here are his answers.

**GROENE:** Thank you.

**LINEHAN:** We did get letters for the record. Proponents: Dan Schmidt-- Schmid, excuse me, from Dwight; Robert Post from Banning-- Banner County Board of Commissioners. Opponents: Tim Burke, Omaha Public Power District; and Raoul Slavin, Treehouse Management, LLC. No one was neutral, just like here. So Senator Brewer, would you like to close?

**BREWER:** Yes, I would. I had hoped that this would be a fairly cut and dried event, because I have come forward with a number of different pieces of legislation over the last four years. Some of it was purely targeted at wind energy. The first one was to stop all wind energy in the Sandhills. If you look at this note, that is \$73,695 that we're talking about. We probably burned that in lawyer fees today. So why-- why they wouldn't just simply say, you know, this is not a terrible burden that we're trying to put on our companies to help with property tax in Nebraska. This really-- I mean, I struggle because every time there's anything that has to do with wind energy, there's a platoon of overpaid lawyers that prance in here like a conga line and start telling us about how they do all these great things. If they did what they said, the hallways and the schools in O'Neill would be paved in gold because they give you these huge numbers. And if those numbers are accurate, which you can come up and say whatever you want, because there's no-- there's no truth that has to be on this microphone. So they come in and tell you whatever they're gonna tell you and-- and how great it is, but keep in mind, there are few in this room that was there when LB824 was passed. What did LB824 do? It took them out of the Power Review Board. It gave them a free rein. You talk about the SPP. Well, guess what? We decided to be part of the SPP by what? What decided? It wasn't a vote of the people, it wasn't a vote of this body, it wasn't a vote of the Governor. They just arbitrarily said,

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we're doing it, committing hundreds of millions of dollars. And now we're gonna argue about \$76,000. So I struggle because they don't mention, and I could-- if I picked up the phone and called, I could bring in a lot of ranchers that are dealing with this issue right now. Unfortunately, they're so busy feeding cows, they don't have the time to come in here and argue with lawyers. So it's my job to try and carry their voice. We're splitting counties apart in my district because-- we're splitting families apart because of wind energy. Wind energy is great on the surface. We're gonna build this big tower and you're gonna make a lot of money. We're gonna pay you. Now, it doesn't say anything about the neighbor who has to look at it. And now all of a sudden, the home he wants to sell, he can't sell because nobody wants it because they don't want to look at this rusting behemoth. So we're in a situation now where we're just gonna give them a green light. We're gonna do is let them do whatever they want and say, you know what, this contract that we had from years ago has to be in place forever. We can never increase the amount that you pay for that footprint on that land. That land that used to produce ag products now is gonna be gravel and steel and concrete forever. Now, maybe that's not true, but show me a decommissioning plan. I tried to get one last year. I did get one from Senator McCollister. But when I try and get one in my own district, I can't do it. Much of what's in wind energy is kept secret. It's not transparent. Why is that? Probably because there's a lot of money involved. And if there's not a lot of money involved, I can't believe they would have so many lawyers that would just show up for a hearing. So I just ask today that you consider this as not unreasonable. It's just fair. It's what we need to do. It helps with property tax for everyone in Nebraska. It's pay-- paying their fair share. So with that, I will take any questions on LB818.

**LINEHAN:** Thank you, Senator Brewer. I saw Senator Groene and then Senator Friesen. And then we'll see if somebody else.

**GROENE:** Senator Brewer, you heard that Holt County was the shining success. Since 2010, Holt County was at 10,435 people, and in '18 they were 10,178. And jobs in Nebraska did-- what's your opinion on Lincoln County, who hauls coal and burns coal, has lost over 2,000 people and probably about 800 jobs? So what's your opinion that wind is such a great job builder in the state of Nebraska?

**BREWER:** I won't deny that it doesn't bring in some jobs. The problem is, you know, how many jobs per however many wind towers that you put up, and the effect that those wind towers have on the community. I mean, there has to be a value added to the corrosion of the communities that the dislike between neighbors that never used to

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exist. You know, we want to compare ethanol, but I can have an ethanol plant across the road and my life goes on. If I wake up every morning and I'm looking at a 600 foot behemoth, my quality of life does change. And he may have made some money to put it up on his land, but I'm not going to make a cent and no one asked me about it. And that's the issue that I'm dealing with in the district. And it's-- it's become a land war out there. I mean, I've got-- I've got the people of the county suing the county commissioners because they made a decision that went in direct opposition to the recommendations of the planning board. And it's a lose-lose for me on either side of it. But it doesn't keep me from trying to right a few wrongs. And I have-- I've scaled down what I wanted to do. I mean, if I had my way, I wouldn't let another wind tower in the state of Nebraska come hell or high water, but I'm saying let's just have them pay a fair amount of tax increase. I'm not trying to run them out, I'm just trying to do what's fair. But I mean, to answer your question, there is some direct benefit in the community. But what we have to weigh here is-- is, well, for one, should they pay a-- a increase each year as everyone else that raises any type of a crop has to do. And then I just ask folks to understand that there has to be a way that's put on what is happening to these communities and the discontent that we're dealing with.

**LINEHAN:** Thank you, Senator Groene. Senator Friesen.

**FRIESEN:** Thank you, Chairman Linehan. So I probably should have asked this question from one of the attorneys, but have you seen a contract on the sale of electricity? Does it include any pass-ons or pass-throughs that if, for instance, the cable television companies, when you put an occupation tax on, it's just a line item. They pass it on to the customer. You know, do wind contracts have any of those variables that you've seen in them?

**BREWER:** Well, I haven't spent a lot of time studying the wind contracts. I have no doubt that they're probably being truthful with you when they say that if you increase our-- our property taxes, we're just going to pass it on in rates. I don't think that's a good reason to not make them pay a fair amount for their taxation, and that's on them if they decide to do it. The people need to understand that. But, you know, the whole issue that you hear when you talk about wind energy, and to a degree, solar. But if the sun don't shine, the wind don't blow, then you've got issues and that puts a burden on the power grid. So now they have to have these plants up and ready to go because the minute the wind quits, then they have to build it-- not allow a brownout or blackout. So, you know, they-- a lot of talk about all the



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greatness of wind energy, but if the truth is known, it's-- it's a pain for power because of its undependability.

**FRIESEN:** Well, if you were-- I mean, take for instance, if you were a businessman and you were going to build a product that you were going to sell to a company and you were going to do a 20-year contract, would you-- who is at fault if you don't put in cost of living increases or cost of production increases that are not under your control like taxes or something else? I mean, again, no one-- we cannot bind future bodies. You may have made an agreement back then, but if this body changes its mind, it changes its mind. And so to say that we can't go retroactive work or pull into these current contracts, if they do not have a clause built in there to recoup that, is that our fault?

**BREWER:** Well, considering the number of attorneys they have, I wouldn't think so.

**FRIESEN:** OK. Thank you.

**LINEHAN:** Thank you, Senator Friesen. Are there any other questions from the committee? OK. I already did the letters, right?

**BREWER:** Yes.

**LINEHAN:** OK. Thank you very much.

**BREWER:** Thank you, Madam Chairwoman.

**LINEHAN:** With that, we close the hearing on LB818, and everybody have a nice weekend.