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Urban Affairs Committee October 22, 2019
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WAYNE: Welcome to the Urban Affairs Committee. My name is Justin Wayne, I represent Legislative District 13, which is north Omaha and northeast Douglas County. And I serve as the Chair of Urban Affairs Committee. I will start off having committee members and committee staff introduced themselves, starting with my right, Senator Arch.

ARCH: John Arch, Papillion-La Vista, it's District 14.

HUNT: I'm Megan Hunt and I represent District 8 in Omaha, Nebraska.

TREVOR FITZGERALD: Trevor Fitzgerald, I'm the committee legal counsel.

CRAWFORD: And good afternoon, Senator Sue Crawford. And I represent District 45, which is Sarpy County.

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

CONNER KOZISEK: Conner Kozisek, committee clerk.

WAYNE: Thank you. And this afternoon, and I want to thank you, South Sioux City, for hosting us. There was a great lunch and we got a great discussion with Lance and, and also your mayor here about all the different topics that are affecting South Sioux City. This afternoon we will be hearing two interim study resolutions, and we'll be taking them up in the order listed outside the room. On the tables in the back of the room you will find a blue testifier sheet. If you are

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planning to testify today, please fill out one, fill out and hand it to Conner at the end before you testify, so we can keep accurate records of the hearing. If you also want to just make your presence known, please fill out the gold sheet in the back of the room. And that will allow us to know that you were here and the issue was important to you and you, you wanted your presence reported. Also, I would like to know the legislative policy that all letters for the record must be received by the committee by 5:00 p.m. prior, the day prior to the hearing. Any handouts submitted by a testifier will also be included as part of the exhibits. If you have any handouts, please bring 10 copies and give them to Conner to pass out for the committee. Testimony for each interim study will begin with the introducer's opening statement. After the opening statement we will hear from invited testifiers. After that we will take testimony from the public. Since this is an interim study, we will not have any proponents or opponents. We are just here gathering information. We ask that you begin your testimony by first saying, saying and spelling your first and last name, so we can make sure you have them correct for the record. We will be using a four-minute like system, in the Urban Affairs Committee we've always used that. So please try to keep your, your comments to four minutes or less, and I will ask you to wrap up when we get around four minutes. I would like to remind everyone, including senators, to turn off your cell phones or put them on vibrate. With that, today's hearing-- we begin today's hearing with

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LR155. And since I am the introducer, I will turn it over to--
actually, since I'm the introducer of both of them, Senator Hunt, who
is our Vice Chairman, Chairwoman, will run both of these. And rather
me just keep walking back and forth, I'll stay here and do my
introduction. But she will actually be running the meeting. Oh,
Senator Hansen, who actually had a flat tire. Glad you could make it.
Go ahead and introduce yourself, please.

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

WAYNE: With that, Senator Hunt, I will turn the lead over to you.

HUNT: Thank you, Chairman Wayne. And I'll open the hearing on LR155.
Senator Wayne, you're invited to open when you're ready.

WAYNE: Thank you. Good afternoon, Chairwoman Hunt and members of the
Urban Affairs Committee. My name is Justin Wayne, J-u-s-t-i-n
W-a-y-n-e, and I represent northeast Douglas County and north Omaha,
which is Legislative District 13. LR155 is an interim study to examine
the issues faced by Nebraska municipalities that border another state,
with the emphasis on how policy changes on the other side of the state
of the border affect Nebraska municipalities. Nebraska borders six
other states: Colorado, Iowa, Kansas, Missouri, South Dakota and
Wyoming. As noted in the committee memo on the map in your materials,
there are approximately 66 municipalities in Nebraska that are within
a five-mile radius of our border, encompassing almost one-third of our

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state's population. These border municipalities include our, our state's only-- I'm sorry, include our state's only city of the metropolitan first-- metropolitan class, which is Omaha; seven first-class cities; and eight cities of the second class. There are a number of major policy issues in the state where, isn't the state where Nebraska law differs greatly from that of one of our neighboring states. A number of those issues raised last week's testifiers, among them were gambling. Multiple city officials testified about the impact Iowa casino and gaming sports betting laws had on their local Keno programs. Representatives from Horsemen's Park testified about the impact of Iowa casino gambling, gaming and sports betting laws on Nebraska horse racing. Taxation, the city of Bellevue testified that the impact of other states' exemptions on military retirement income and also economic development. Multiple city officials testified about the differences in state and local economic development incentives between Iowa and Nebraska. The League of Municipalities testified about the differences between Nebraska's restrictive TIF statutes over other TIF laws. Additional issues that are affecting our border cities: Marijuana. Mississippi has medical marijuana and Iowa has both medical-- I mean, Colorado has both medical and recreational. Minimum wage, Nebraska, South Dakota and Colorado have higher minimum wages than federal law. And motorcycle helmet law, which requires helmets. Iowa does not have one, South Dakota and other states require helmets only for riders under

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18. In August, my office sent letters to each of the municipalities that are within five miles of the state border inviting them to testify and share their experience and unique challenges that they face as border municipalities. Several municipalities testified last week, while others had written testimony, and we had a couple of people who could not make it here today who also sent e-mails and follow-up phone conversations with staff just to make sure that their issues are addressed. So with that, I would be happy to answer any questions and look forward-- and again, I want to thank the mayor of South Sioux City for talking about the issues that are going on in South Sioux City. And we had a very robust conversation over lunch, and I look forward to having more conversation in this public hearing regarding these issues too.

HUNT: Thank you, Senator Wayne. Any questions from the committee for Senator Wayne? Seeing none, I would invite any public testimony to come up and share with us. Welcome to your Urban Affairs Committee.

MICHELLE BOSTINELOS: Thank you. Chairman Wayne and members of the Urban Affairs Committee, my name is Michelle Bostinelos, spelled M-i-c-h-e-l-l-e, last name is B-o-s-t-i-n-e-l-o-s. And I'm the executive director of the Siouxland Interstate Metropolitan Planning Council, known as SIMPCO. SIMPCO is a regional council of governments that serves Dakota County in Nebraska, as well as Union County in South Dakota; and Woodbury, Plymouth, Cherokee, Ida, and Monona

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Counties in Iowa. SIMPCO is one of the few handful of tri-state council governments across the nation. We promote ourselves as a uniting force of local governments, addressing issues on a regional basis. Connecting people, ideas and projects regardless of boundaries is what we do. We are led by a board of directors and house several regional committees relating to transportation, transit, housing and economic development. SIMPCO is a proud member of Nebraska Regional Officials Council, NROC, and the statewide association-- it's the statewide association of eight economic development districts in the state. A copy of our map is attached to this statement. As you can see, a portion of every district includes a state boundary. In addition to SIMPCO, the other multi-state district in the modern-- metropolitan area is MAPA, which serves four counties in Nebraska and two counties in Iowa. Development districts assist communities with many services. We do economic development, planning, technical assistance, grant writing, administration, housing assistance through programs for new construction and rehab, as well provide data and mapping expertise for members. SIMPCO also serves as the regional transportation entity or the MPO in the Sioux City metro area, which is responsible for planning and coordinating and allocating federal transportation dollars. The development districts have received state appropriations in recent years to assist the communities in our respective districts. We provide a unique resource for rural communities. With this funding, SIMPCO developed a county-wide

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economic development plan with Dakota County. We've also assisted with long-range comprehensive plans for several communities to help update zoning ordinances and provide updated digital maps for city, village infrastructure. This year, we'll be working closely with the Dakota County Economic Development Stakeholder Group to implement recommendations from our recent study. Boundaries are difficult to overcome, and trying to Santos to the intricacies between the three states is not easy, especially when it comes to areas of economic development and transportation. For example, states differ in how they utilize tax increment financing, TIF, tax abatement incentives, and of course, different tax structures have large impact on our local economies. While each jurisdiction is concerned understandably about its own growth and tax base, we preach that we are one unified region here, where growth on the Iowa and South Dakota side has a positive result from the Nebraska side and vice versa. However, it's important to note that with growth, new challenges appear. Oftentimes these challenges do not know state boundaries. One example of this is housing. Citizens from the Siouxland area may work in one state and live in another. Therefore, growth of an industry or a new industry can put pressure on our neighboring communities across the state line to provide additional housing. Therefore, working together with our neighboring states is essential and a common day practice for the Siouxland region. SIMPCO works closely with cities, counties and multi-state agencies like our Siouxland Chamber of Commerce to ensure

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good communication and develop regional solutions for regional problems. That concludes my remarks. Thanks.

HUNT: Thank you, Ms. Bostinelos. Are there any questions from the committee? Senator Arch.

ARCH: Thank you for coming today. What-- when was this formed? How long has this been in existence?

MICHELLE BOSTINELOS: SIMPCO?

ARCH: Yeah.

MICHELLE BOSTINELOS: Since 1965.

ARCH: OK, thank you.

MICHELLE BOSTINELOS: Yep.

HUNT: I have a question.

MICHELLE BOSTINELOS: Sure.

HUNT: I think you're in a really interesting position, since you're working with three states on economic development and all of these issues. And I don't think you're prepared to talk about this today. But what, what do you think about that Nebraska Advantage Act? You know that that's coming back up and we're discussing that in the Legislature, and in terms of the business tax incentives that we're

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giving companies. Do you have any experience or can you speak to how having that in Nebraska has affected our economic development as opposed to South Dakota or Iowa?

MICHELLE BOSTINELOS: You know, I don't think that I'm probably the expert to speak on that.

HUNT: OK. Thank you. Any other questions from the committee? Seeing none, thank you, Ms. Bostinelos for being here today. Next testifier for LR155. Welcome.

ALEXCIA BOGGS: Good afternoon, Chairman and the members of the committee. My name is Alexcia Boggs, A-l-e-x-c-i-a B-o-g-g-s, I am the director of development for Ho-Chunk Capital. Ho-Chunk Capital directs all investments for Ho-Chunk Inc., the award winning economic development corporation of the Winnebago tribe in Nebraska. Our mission at Ho-Chunk Capital is to create quality, sustainable development that builds new value assets for the company for years to come. Ho-Chunk Capital, however, is only one of several subsidiary companies of Ho-Chunk Inc. In 1994, the Winnebago Tribe of Nebraska launched Ho-Chunk Inc. from the casino profits of WinnaVegas Casino. From that point forward, what started with one employee, Ho-Chunk Inc. has grown to over 1,200 employees. We have, we are a \$207 million company. We have operations across the United States and overseas. Because of the startup casino proceeds, Ho-Chunk Inc. continues every

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day to remove barriers and create opportunities for the community, not only the community in Winnebago, Nebraska, but the regional community that we sit in a tri-state area. I encourage the committee members to go to Ho-Chunk Inc.'s Web site, hochunkinc.com. You will find our latest economic impact study report. Every three years we do an economic impact study and you find, you will see that there is quite some amazing statistics on there, such as our median income has grown 83 percent since Ho-Chunk Inc. has started because of the casino proceeds. We have also seen our home ownership rise over 9 percent, which is way higher than the national or regional average. And I could go on and on about the economic impact that Ho-Chunk Inc. has had, but I know you guys are here to take-- today to kind of discuss some of the issues that that other states might deal with. And I would just like to take a few minutes real quick to talk a little bit about the econ-- the regional impact that Ho-Chunk Inc. has had. As you know, we reside right by Iowa, Nebraska, and South Dakota. And we are now, we are leading-- we are one of the leading regional employers in the tri-state area. The growth that we have seen results in \$429 million in spending, \$127 million in wages and salaries, and almost 800 jobs that we add to our tri-state community. This is just in this tri-state area, not global. And I'd like to kind of conclude that yesterday I did have the privilege to listen to our, the 16th annual Tri-State Governors' Conference. And at this conference the three governors from Nebraska, Iowa, and South Dako-- South Dakota, come together to meet

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with leaders in the community to talk about issues that are important to them. And as I was listening to them talk to various issues, there was really one thing that, that, that they kept saying over and over again, was we are better together. And as a tri-state area, we are better. We can accomplish things better together, if we do it together. But if we, Nebraska, continue to fall behind and lose out on the economic advantages that certain things like gaming provides, we will never be able to walk with our partners forward and reap the benefits of that. And I am a Nebraska girl. I was born in Genoa, Nebraska, a small town. I went to Wayne State College, went to grad school at University of Nebraska. And now I work for a company that every day I go in and I see the benefit that that has come from those original casino, casino proceeds. And so I just encourage the committee members to be open minded and realize that, you know, according to Iowa Racing and Gaming Commission, \$300 million in Nebraska residents already are in gaming. So it's already here. So I think it's just time that we keep the money, Nebraska money in Nebraska. So that's all I have.

HUNT: Thank you, Ms. Boggs.

ALEXCIA BOGGS: Thank you.

HUNT: Are there any questions from the committee? Senator Wayne.

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WAYNE: What other-- this is an unfair question because just off of my head. What other industries-- I know you had a hemp farm, because I had a hemp sponsor bill-- I sponsored a hemp bill. What other industries in Nebraska would you like to see or have advantages of some tax credit or tax breaks? And it's a little bit different, because you're a sovereign nation. But what other industries out there do you see when dealing with the tri-state that might be beneficial to Nebraska? And again, it's an unfair question so--

ALEXCIA BOGGS: Yeah. I mean--

WAYNE: --you can defer and get back to us.

ALEXCIA BOGGS: HCI Farms is, is a company that has taken off. And we, we, we've always been in the ag-related industry, being a native tribe. But we really would like to see the, the hemp industry grow and HCI Farms continue to grow. It can include, you know, we have a manufacturing company located on the reservation. We have a distribution company located on the reservation. So growing those type of industries would be beneficial. We would love to see more white collar jobs. I mean, we have 1,200 employees. But when we have a contract with NASA to do their HR handbooks, it's hard to get, you know, fulfill a 300 job, white collar job in this area. But if we can create an environment that allows for the opportunity to grow these white collar jobs in like Sioux City, South Sioux City, Nebraska, you

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know, Ho-Chunk has that capability to bring them here. We just need some help doing that so.

WAYNE: Thank you.

HUNT: Any other questions from the committee? I have sort of a general question. How will expanding gambling statewide in Nebraska, because we're right up here in the corner now, and there's a lot of state. How will that help Ho-Chunk and how will that help your community?

ALEXCIA BOGGS: From, from the gambling?

HUNT: If we expand gaming statewide, yeah.

ALEXCIA BOGGS: Yeah. It would be the same thing as it does Iowa. I mean, I think you see the, the tax benefits that the state collects from the casino revenue. And the state and the local communities have that ability to allocate that tax however they want to. You know, general fund, property tax relief. That's up to you guys to be able to make that happen.

HUNT: Thank you.

ALEXCIA BOGGS: Yeah.

HUNT: Anyone else? Thank you.

ALEXCIA BOGGS: All right, thank you very much.

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HUNT: Thanks for being here. Come on up.

LANCE HEDQUIST: I'm Lance Hedquist, L-a-n-c-e, Hedquist, H-e-d-q-u-i-s-t, I'm the city administrator of the city of South Sioux City, Nebraska. I did want to indicate that one of the programs that we think has been very successful in our area is the Nebraska Advantage Act. That has definitely helped us bring in major industries to our, to our community. It makes us very competitive with other states. We know that in Iowa's case, they have the Iowa border economic program where they can help subsidize companies for moving in and expanding in Iowa. That's done in large part because of the Nebraska Advantage Act, that they know there's competition for those jobs and for those employers. So we definitely thank you for the past Advantage Act, and hopefully that will indeed continue. We do support the land banking bill that you have, we think that's a wise program to do. I think it was little misunderstood in the past. I think that's been clarified. I think that could be a great program to really clean up towns all across the state of Nebraska. So we see that as a, as a very positive move for that to take place. We actually do support the hemp legislation. We've supported that in the past, continue to support that. We think that's a good new industry to come to our area. Not the mari-- not the marijuana, but the hemp program. Overall, we think is, is beneficial for, for the state. We think the legislation you passed for the landfills, allow grass in the landfills, has been

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very good for us. We take grass and put it right in with our garbage, goes to landfill. That then produces the methane gas that is then used by the ethanol industry in our case. And that's allowed under state law and we appreciate you passing that. I think that makes it more convenient for the customers and obviously makes good sense for the environment as a whole. We also support the joint programs and police/fire protection. We have agreements with Sioux City, other locations for fire and police protection for our community. In the case of a crisis, that becomes very important to us in our area, we have joint water agreements, we were the first public water system to-- first city to tie in two water system, public water systems together in state of Nebraska. We think that's also beneficial for the citizens of South Sioux City to have access to other water sources in our area. We think the Water Sustainability Fund has been very good. If we can use some of those funds, and we have an application in for using that for some of our water needs, that will be beneficial for the groundwater in the state of Nebraska because we would not be taking the water for that facility out of the aquifer here. We do have a sewer agreement with Sioux City. That's kind of a good thing/bad thing. Issues work very well since the 1960s. They've informed us that they're kicking us out of the system. So we now have to find a new sewer plant, which is not necessarily easy to do in life. We estimate the costs about \$35 million to put that together. I do want to say Jim Macy in the Department of DEE, I got to stop and think of the initials

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here for that. The department had been outstanding in working with us and trying to help us. So we want to definitely thank him for that. And we're also, as you probably know, very involved in terms of new electrical programs. We have solar power, we have wind power in our in our community. We have hydro power, we have a natural gas plant, and we buy some plant-- some from coal plants around the country. And we want to thank you for your legislation parts that allow us to get that done. So we want to thank you for what you're doing. And I'm very glad to have you in town.

HUNT: Thank you, Mr. Hedquist. Any questions from the committee?
Senator Arch.

ARCH: Perhaps you could talk a little bit more about the Nebraska Advantage Act and how that has impacted you're area. I know that you're a proponent of that. Imagine, the Imagine Act to come, but specifically that, that plan.

LANCE HEDQUIST: We have several plants and several companies that have used that. The Ingredion corporation, which is building \$87 million plant, which will be opened up this fall, they're going to use yellow peas to process in their facility. They definitely looked at and the-- and they could have located anyplace. I mean, there is no specialty about Sout Sioux City, but that was one of their advantages they had to locate here over other states and other areas. Not just adjacent to

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us, but throughout the United States. We've seen BPI, which now Empirical, they're doing another expansion on their plant. They have definitely taken advantage and looked at the Nebraska Advantage in terms of making their decisions. They have plants in several states that could easily expand-- they could easily expand in those other states, that they chose here. And the Nebraska Advantage really made an impact on them as they looked to come to our area. We have other companies that have used that here. It's growing our employment base, our tax base in our area. So it's, it's one that people definitely look at. So it's been very good for us.

ARCH: Thank you.

HUNT: Senator Lowe.

LOWE: Thank you for coming today. And--

LANCE HEDQUIST: Thank you.

LOWE: --I'm just kind of curious. You said that you're allowing grass clippings in your dumps.

LANCE HEDQUIST: Yeah.

LOWE: You're able to get methane off of that. So are you processing methane now?

LANCE HEDQUIST: The methane, the grass clippings in the garbage goes into the landfill that's at Jackson, Nebraska. Then they obviously cover it, as they do in all landfills across the state. And then the grass actually disintegrates and produces methane gas at that location, and is enhanced as the amount of methane and the quickness of getting methane out of the landfill. So it works very well and the public like it because they don't have separate containers, they're putting it all together, and it's doing something very good for the environment. And for the ethanol people, I would just throw in, they also sell some of their, sell some of this ethanol, they sell actually to California. And part of the reason they can sell it to California is because they get it's green because of the methane that comes in to the plant. So they win in a backwards way from the-- your decision to allow grass in the system.

HUNT: Senator Wayne.

WAYNE: Can you talk a little bit, I think there's a historic issue around the local sales tax option underneath the Nebraska Advantage Act and how that works? Here, or am I wrong?

LANCE HEDQUIST: In terms of the Nebraska Advantage Act, the people or businesses can get a rebate on their sales taxes. The problem we have with that is, number one, what I personally would prefer is that we're part of the signature of that agreement. We don't see it, so we don't

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know what is involved. And since it's taking away from money that the voters have approved, we should at least know what that is and what those characteristics are. Second of all, the business can actually get a double-edge positive result because they can use some of our infrastructure money to build a road, extend a water line, or do something to them and would use sales tax money to do that. But then in the end, they will ask for a rebate that takes it back. So I think there needs to be more transparency. I don't know if I explained that very well, but there should be more transparency in terms of having the cities, cities know what that impact would be. And as you know, the people can have many years, they can take and get rebates. And we have no idea who's out there. We've seen cases where some cities haven't got money for years. We've been without money for months. We had a joint project with the county at one time on building, helping them build a jail with sales tax money. And all of a sudden we had several months we didn't get any and people asking, well, where's the money go? How come you're not paying us the money? Well, we didn't get it. So anyway, I think we could be, we could do a better job of letting us know what's taking place with that and when the people are meeting that, those thresholds. You have made improvements to give us a little more notice, but that doesn't change the basic issue there.

HUNT: Speaking to the topic of economic development, the state chamber, the Omaha Chamber where I live, work force is such a huge

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priority for everybody in Nebraska. Whether you're talking about attracting and retaining talent or attracting workers for the jobs that are being created by these economic incentive programs, tell me about the landscape of work force and housing and jobs up here in Siouxland and the tri-state area.

LANCE HEDQUIST: We have thousands of jobs that are open in our area, thousands. And we have in Nebraska, I think it's 17 to 1 jobs that are open versus how many people are unemployed across the state. In Iowa, I think it's 27 to 1. It's a huge gap between unemployed and the need for trained workers. We do support the community colleges and other entities that are doing training programs, helping get us a better skilled work force. That, that I think is positive to do. We think that the three states, Iowa, Nebraska, and South Dakota would be better served if we could cooperate in terms of some of the training programs for our high school students. As it is today that Iowa has their program, Nebraska has theirs, South Dakota has theirs. If we worked together it would not increase costs for the state of Nebraska, but it would increase the benefits to the students in our area. So we think that would be a positive situation. On the housing side, it's obviously very expensive. I think we've done a good job in terms of letting the public know that there's demand out there working with the private sector to get, to get that done. We've used to TIF in some cases to help encourage housing to come in, into our community. Your

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previous speaker with Flatwater, they have a 200-acre parcel of ground they're developing primarily for housing. That's an amazing thing. By far, the biggest land area of a project that we've seen in our, in our community. So we think we're getting the message out. But it's an expensive proposition to get, get done. I'll also note, if you look at some of the national statistics, that lots of things are changed. You have more kids that live with their folks by far than used to happen. So some of the housing demands have changed. I'm not sure we're all quick to realize how much impact that that has. The amount of women that want to start families has dropped dramatically. I mean, it's huge numbers from what it was 10 years ago. So that changes what we look at in terms of housing developments in the area. So times are definitely changing. But we do have to be primarily encouraging the private sector to step up to the plate.

HUNT: Do you have a sense of the number of students who leave the city?

LANCE HEDQUIST: I don't have a number, no.

HUNT: Any other questions from the committee? Seeing none.

LANCE HEDQUIST: Thank you.

HUNT: Thank you, Mr. Hedquist.

ALYSSA SILHACEK: Good afternoon. I'm Alyssa Silhacek, spelled A-l-y-s-s-a, Silhacek is spelled S-, as in Sam, i-l-h-a-c-e-k, and I'm the city administrator for the City of Dakota City. I might be one of the smaller communities that will speak to you guys. We are a second class city, but we're unique in the fact that we're also part of the Sioux City MSA. So we're part of an urban setting and are essentially considered an urban community, even though probably we look very rural to most people. Our population is 1,919 as the last U.S. Census. As I said, we're, you know, a smaller community. We consider ourselves to be a bedroom community. But any major industry that comes into our area, we do feel the impact. We have a very low unemployment rate, which is great, but our housing stock is not quite what we would like, which is probably what you hear from a lot of other communities. Especially, I think a few years ago there was a major industry that came in, and so there were a lot of contractors or construction workers that were trying to find temporary housing in our area. And for Dakota City we have a campground, so we're able to support temporary housing for just a few short months. We also have a few rooming houses, which the city doesn't inspect. And there's also been some, some review on our city council too, to look at the quality of housing that we have in our communities because we are, you know, we're an older community. I think we're one of the older communities in the state of Nebraska. So our housing stock isn't quite as good as we would like it to be, so we're looking at new ways to kind of

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improve that. One new thing that we have done this year is we've actually implemented the vacant property registration. We just did, I think, a few months ago we just started to implement that program. So I thank you for allowing us to do that. So far, we're kind of looking at the success of that program. But I would say initially it's been a pretty good impact for our community. Another, and I've talked about housing, another issue for our community is infrastructure. You know, like I said, we're an urban area, but we really struggled to find ways to finance new infrastructure. Our community, about half of our roads are stone gravel. In the last few years, we've paved about 27 blocks, but we still have a long way to go. There are a lot of residential areas that don't really have proper stormwater drainage. And so that's been a concern for us, too, is just how do you finance these properties? How do you finance these kind of projects? We also run into utility concerns too. Our water and wastewater systems have both undergone major, major rehabilitation or, in the case of our wastewater services, an entirely new facility. So that's been another expense for our community. And we were fortunate on the wastewater side to get SRF funding. So we thank the state of Nebraska for your participation with that as well. But we are unique in the fact that we're such a small community and we operate both a water treatment facility and a wastewater treatment facility. So for us, you know, we recognize that we're part of a larger area, but it's also important to us to maintain or own autonomy and our own identity. So that's part of

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why we've chosen to maintain our own facilities. And the local option sales tax has had a huge impact on our community as well. We were, or we are part of the, a county-wide sales tax, which is unique in the state of Nebraska. We were part of that sales tax to construct fire stations specifically. So we've seen a brand new fire station in our community and have also worked with other communities like Homer and Emerson as they either remodeled their fire station or built a new fire station. And so with the Nebraska Advantage Act, we were impacted by that. I think for about six months we had to-- there was a rebate issue. For six months we did not collect a local option tax, and that was a shock to our communities. We weren't really very familiar with it because we hadn't really had a sales tax before. And so we were trying to figure out how after we built these facilities, you know, major public safety facilities, how are we going to pay off the bond issues if we aren't getting the revenue in? So we were able to kind of get through that, but it was a shock for, you know, what a relatively small community that we're trying to learn how to use a local option sales tax. We have passed a second sales tax to help finance infrastructure projects too, so that we are able to maintain the infrastructure that we do have. So those are some of the challenges and some of the issues going on in Dakota City. And if you have any questions, I'd be happy to answer them.

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HUNT: Thank you, Ms. Silhacek. Any questions from the committee?

Seeing none, thank you very much for coming here today.

ALYSSA SILHACEK: Thank you.

HUNT: Any other testifies for LR155? Seeing none, no? We have no letters for the record on this one. Senator Wayne, would you like to close? He waives closing, and that will close our hearing on LR155. Next we're going to do another Senator Wayne LR, it's LR131. Senator Wayne, I invite you to open.

WAYNE: Good afternoon, Vice Chairwoman Hunt and members of the Urban Affairs Committee. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13 in north Omaha and northeast Douglas County. LR131 is an interim study to look at local regulations impacting solar energy. While the committee has already discussed the regulations of solar energy by the Homeowners Association in last week's hearing in Omaha, this study also provides the opportunity to examine regulations by municipalities and sanitary improvement districts. Generally our, generally our municipal statutes provide that municipalities have the authority to adopt and enforce zoning ordinance within their corporate boundaries, AKA city limits; and extraterritorial zoning jurisdiction, ETJ. When looking at local, how local zoning ordinance impact solar development, it is just that-- it's not just the potential for restrictive zoning requirements that

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prohibit residential solar, solar panels, but there's also the possibility that the city's overall zoning scheme does not permit large-scale or utility-scale solar projects. Aside from municipal regulations, LR131 also seeks to look at regulations by SIDs and the HOAs. In most cases, municipal zoning regulations will still apply to the area that are outside the city limits, but within the ETJ. In contrast with municipalities, SIDs generally have limited zoning authority. The only, only a limited number of SIDs have [INAUDIBLE]. Those that are unable to either annex or nearby municipalities or, or incorporate as a municipality have any kind of lease power. As the committee heard last week, in last week's hearing, more commonly the entity restricting development of solar energy in Nebraska is not the municipality or the SID, but the OHA. Oh, that's not, that's not true. OHA is a public entity. HOA. HOA. As a prime example, the city of Lincoln recently approved what was the largest solar project in the entire state. The project, which will be developed on a thousand acres, a little over a thousand acres east of Lincoln, received a special use permit from the City Planning Commission. The irony of this project is that property owners who are adjacent, who own adjacent acreages are prohibited by the OA-- HOA companies from putting solars on their land, while the developer who developed that neighborhood is able to install 230 megawatt solar farm next door. Prior to the hearing, my office reached out to a number of municipalities that have worked on solar properties, as well as public

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power entities and solar development companies. While some individuals that hoped to testify were unable to make the trip today, a handful of people will testify today. And with that, I will answer any questions.

HUNT: Thank you, Senator Wayne. Any questions from the committee?

Seein none, anybody that would like to testify on LR131 come on up.

Welcome, Mr. Gerrard.

ERIC GERRARD: Thank you. Vice Chair Hunt, members of the Urban Affairs Committee, thanks for having us today in South Sioux City. My name is Eric Gerrard, that's E-r-i-c, last name is G-e-r-r-a-r-d, and I'm here today representing the city of Lincoln. I'm passing around a letter, and I'm mainly going to read from the letter because I had an expert prepare it who works in the zoning, zoning area at the city in Lancaster County. So he knows the technical detail, so I'll mainly read from that. I did speak with the mayor's office this morning and she wanted to convey how the city of Lincoln, solar and renewable is a priority to the city of Lincoln. And so we are constantly looking at ways that we can be more friendly to these sort of projects that Senator Wayne laid out in his opening. So I did want to share that with the committee. So with that, I'll, I'll start reading from the letter. The city of Lincoln provides this letter as input on LR131. We thank Senator Wayne for introducing this interim study and for being a leader on this issue. The city of Lincoln was recently awarded a gold designation from SolSmart, an organization that recognizes communities

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for their achievements in furthering solar market growth. The city worked to elevate its designation from bronze to gold over the course of the past several years. Lincoln zoning regulations try to balance the promotion of solar energy as supported by our comprehensive plan, while addressing potential impacts to neighboring properties through the application of zoning conditions and public process where appropriate. Solar energy conversion systems are addressed in the zoning ordinance, which I've attached to the handout that you have, those ordinances, within three different categories: large, small and accessory solar energy conversion systems. I'm going to go through briefly and talk about the difference in, in the zoning on those three categories. So starting with large solar energy conversion systems, those are the commercial lever-- level systems. And I think Senator Wayne alluded to the Ranger project that was recently approved, approved would be within that. They are defined as those intended to be used primarily to provide off-site power with a rated capacity over 100 kilowatts and where the system is the primary use on a lot or on the premises, they are permitted by right away with no zoning conditions in most of the highway commercial districts and all of the industrial districts. Large systems are also allowed by special permit in the agriculture district, with several conditions related to the screening, setbacks, and then also the decommissioning process. The special permit requires public hearing and action by our planning commission. Lincoln's jurisdiction has two large systems, both

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approved by the special permit in the ag district, which is within the cities three-mile ETJ that Senator Wayne mentioned. The first was a five megawatt solar farm project that was installed by Lincoln Electric System, that would have been about two or three years ago that one went through this process. And then recently, the recently approved 230 megawatt facility for Ranger Power. From, from our experience, the city experience working with Ranger Power, we thought demonstrated that our ordinances and zoning conditions in Lincoln are set up well to work with these large-scale solar projects. The next designation is the small solar energy conversion systems. These are similar to large systems, but include only those with a maximum capacity of 100 kilowatts. The intent of the small system was for what is often termed as a community solar project, allowing the residents within a neighborhood to operate a smaller-sized solar system for the benefit of their area and to offset expenses for their association. They are permitted by right in most commercial districts and all industrial districts. They are also required to a special permit in the ag, residential, and residential office and residential transition districts. The special permit conditions include those required for large systems as well as several others, including a maximum height of 20 feet, a requirement that the system not be located on a property intended for residential development and ownership by residents in the surrounding neighborhood. The special permit, permit conditions are intended to address suitability and possible impacts to adjacent

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properties in those districts having a more typical residential character. To date, there has only been one request in the city of Lincoln for a small system in the Capital Beach neighborhood and on an outlet owned by their association. That brings me to our last zoning area, and that's accessory systems. These are small in scale and intended to generally offset or correspond to the energy used by a home or some other sort of building. Language was recently added to the code earlier this year that stated accessories systems are allowed by right in all zoning districts. If located on top of the building, they may exceed the standard height regulations by 20 feet. If they're located near the main building, they must conform to the setbacks and height applicable to the main building. I think I mentioned this, but I've also attached to my testimony a listing of those zoning ordinance sections so that you can confirm what I, what I just told you and get into a little bit more of the detail. We're hopeful that the information discussed is helpful to your process in studying solar energy regulations in communities across Nebraska. Let us know how we can help. I should mention that I checked in with David Cary, who is our planning director, and Steve Hendrickson, who helped prepare this letter. We're proud of the work that we've done to bring some of these projects to Lincoln, and we'd be happy to work with the committee and other cities to go through the process, because we think it's been a

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benefit to our community. So with that, I'll stop my testimony and ask if there are any questions.

HUNT: Thank you, Eric. Any questions from the committee? Senator Arch.

WAYNE: So just so I--

HUNT: Sorry.

WAYNE: Oh, sorry.

ARCH: Go ahead.

WAYNE: I just want to make sure I understand this right. So the city allows it by right, but the OHA can restrict that right? HOA.

ERIC GERRARD: HOA.

WAYNE: I'm going to get a call from the public housing authority in Omaha.

ERIC GERRARD: Yeah. And I tried, I tried to confirm that after the hearing last week. I sat, sat in and listened to some of the testimony. But yeah, that's my, that's my understanding.

HUNT: Thank you. Senator Arch.

ARCH: Thank you, Senator Wayne, for asking my question. That's exactly what I was going to ask.

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HUNT: Eric, what is the history of these ordinances in Lincoln? How long have these been around?

ERIC GERRARD: That's a, that's a good question. I mean, the only, the only substantive answer I can give is I know we, we made some updates earlier in 2019. I know working with the Mayor Beutler, he started in 2007, and I know he did some updates. I can't give you the timeline, but I will commit to, to asking our experts and getting the committee an answer kind of on, on the timeline of updates.

HUNT: Just curious. I know a little bit about Omaha's, but not so much about Lincoln. So I just had some curiosity about that. And I'm curious about smaller cities too and how, how they use these opportunities as well. Any other questions from the committee? Senator Arch.

ARCH: I had a follow-up question. So HOA can override with restrictive covenants. If, if the-- if however, the HOA is silent with regards to solar energy, then the zoning would rule?

ERIC GERRARD: Yes.

ARCH: So it would have to specifically mention solar.

ERIC GERRARD: That's my understanding.

ARCH: Before being forbidden, restricted?

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ERIC GERRARD: Sorry to cut you off. That's my understanding. They could possibly talk about setback requirements, generally speaking, and say certain items on your roof without calling out solar in particular. And so that would, that's kind of a caveat to my answer.

ARCH: Thank you.

HUNT: Thank you. Any other questions? Seeing none, thank you, Mr. Gerrard.

ERIC GERRARD: Thank you.

HUNT: Next testifier on LR131. Welcome.

STEVEN RAMES: I didn't come here with any prepared comments today. Steven Rames, city in Norfolk. S-t-e-v-e-n R-a-m-e-s, I'm the city engineer and public works director for Norfolk. For about the last year and a half we've been engaged with NPPD in a community solar program. We are just at the point where we're ready to sign, sign our land lease agreement, sign the solar agreement with the solar provider. I believe NPPD is towards the end of their PPA negotiations and we expect to see that come to, to the end here this month, and then we'll be able to start to move that project forward. It's an 8.5 megawatt solar array. Prior, I think prior to Lincoln, we were going to be one of the larger solar projects out of the community solar program in Nebraska. As a function of what the magnitude of our project, the PPA price that we saw through the proposals would be one

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of the first through community solar program that would be less than the retail rate that's currently being paid by customers. We've not announced that price yet. That's still down the road, road for us. But that is going to-- it's a good thing and it's a bad thing. I guess it's good that the price of energy is going to be lower. Now we need to figure out how we distribute that, that benefit in the community. In conjunction with our solar project, NPPD submitted for a grant for a battery storage project, so our facility will have a 1 megawatt battery storage capability, 2 megawatt hours of energy production. I believe that's part of the RND for NPPD to look at how going forward we can compare solar generation with battery storage. For us, we are, we have a retail agreement with NPPD. We lease our system back to them, so the city of Norfolk, we own that, we lease that back. And then that lease payment that we receive is part of our, our city revenue. Going forward, certainly one of the challenges out there as more renewable energy comes on-line and that price goes down, we'll have a little bit of a challenge there in being able to replenish that revenue source as a function of power cost. We'd like to promote that as first-class communities, I think we're the fifth-lowest in terms of the levy rates that are out there for us. We'll have to see how that, that stands up as, as other things change and energy prices change for us. I am not aware of any regulation within city code on, on individual panels. There's been a group in the downtown area, a group of business owners working with NPPD again for about the last year. I

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think they intend to cover four roofs in the downtown area with solar panels. I'm not exactly sure where that project is, I'm guessing probably next summer we'll see that start to take shape. Have any-- certainly answer any questions. I'm more than happy to go back and do a little bit of research with our planning and zoning office and provide any information to you that does exist in code, if there is something.

HUNT: Thank you, Mr. Rames. Any questions from the committee? Seeing none, thank you for your testimony today. Anybody else for LR131? Seeing none, we do have one letter for the record from the Community Associations Institute. And with that, I would invite Senator Wayne to close.

WAYNE: Yeah, so I want to thank the committee for coming up. Believe it or not, I want to thank Trevor. Believe it or not, thank Trevor for reaching out to a lot of cities. We have gotten a lot of feedback, and literally between last night and this morning we started having people cancel off who were coming to testify. But we felt it was important and I think we've learned a lot of information, particularly over lunch, particularly from Lance today. And I want to thank him again about these issues that I think are facing our, our border municipalities. And I think it is very unique as we in the body continue to think about oftentimes congressional districts as a way of geographically trying to nail down how to do things differently. I

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also think we have to keep in mind border cities are completely different than some of our even congressional districts geographically, that things that affect things, particularly in this where we're at today where there's three states that are doing something different-- particularly South Dakota with low income or corporate tax; and Iowa, who allows for gaming and how their industry and with the wind in Iowa and solar and how all that affects some of these border states when they are trying to recruit, or border cities when they are trying to recruit employees and employers to come here. I do appreciate the committee for coming up today and listening to people. I do think it's a valuable study that we had, and we will compile the e-mails and letters from OPPD and other things that we received last night that to the committee so we can have a further discussion about this hearing before session and then kind of during session as we plan what we're going to do.

HUNT: Thank you, Senator Wayne. And that will close our hearing LR131. I want to thank all of you for coming out. I had a great time in South Sioux City, I think all of us did. And I hope you all have a great afternoon.